

**Title 19 – DEPARTMENT OF HEALTH AND
SENIOR SERVICES
Division 30 – Division of Regulation and Licensure
Chapter 95 – Medical Marijuana**

PROPOSED RULE

19 CSR 30-95.040 Medical Marijuana Facilities Generally

PURPOSE: Under Article XIV of the Missouri Constitution, the Department of Health and Senior Services is authorized to regulate and control the operations of Cultivation, Infused Product Manufacturing, Dispensary, Testing, and Transportation facilities, and to grant, refuse, suspend, fine, restrict, or revoke the licenses and certifications for such facilities. This rule explains how this authority will be exercised.

(1) Application Processes. The department will begin accepting applications for licensing and certification of cultivation, infused products manufacturing, dispensary, testing, and transportation facilities on August 3, 2019.

(A) The department will receive applications for facility licenses or certifications electronically through a department-provided, web-based application system. In the event of application system unavailability, the department will arrange to accept applications in an alternative, department-provided format and will notify the public of those arrangements through its website.

(B) For cultivation, manufacturing, dispensary, and testing facilities, the department will publish on its website time periods during which it will accept applications for review. All complete applications received by the department that are submitted during the application time periods will be approved or denied within one hundred fifty (150) days of that application's submission.

1. Any application fees submitted before or during the first application time period and during any subsequent application period are nonrefundable.

2. After the first application time period, any application fees submitted outside of an application time period will not be accepted.

3. If licenses or certifications are available after a time period for accepting applications has passed, the department will determine when to publish on its website a new time period during which it will accept applications and will publish that new time period on its website at least six (6) months prior to the beginning of that time period.

4. Applications will be considered complete if they include all information required for applications by this rule and by 19 CSR 30-95.025(4). The department will notify an applicant if an application is incomplete and will specify in that notification what information is missing. Applicants will be given seven (7) days to provide missing information.

(C) For transportation facilities, all complete applications received by the department that are submitted on or after August 3, 2019, will be approved or denied within one hundred fifty (150) days of that application's submission. Applications will be considered complete if they include all information required for applications by this rule. The department will notify an applicant if an application is incomplete and will specify in that notification what information is missing. Applicants will be given seven (7) days to provide missing information.

(D) The issuance of a facility license or certification does not authorize the facility to begin cultivating, manufacturing, dispensing, testing, or transporting medical marijuana. A facility will be granted final approval to operate upon passing a commencement inspection.

(E) The department will not license or certify a cultivation, dispensary, manufacturing, transportation, or testing facility that is owned by or affiliated with an entity that currently holds a contract with the state of Missouri for any product or service related to the department's medical marijuana program.

(F) Licenses and certification for facilities may be suspended, denied, or revoked.

1. If a facility provides false or misleading information in an application, its application may be denied or, if the information is later discovered to have been false or misleading, its license or certification may be revoked. Plans, assurances, and projections offered in answers to 19 CSR 30-95.025(4) evaluation criteria questions may be considered false or misleading if, upon application for license renewal, the department determines the facility has not made a reasonable effort to implement or follow-through on those plans, assurances, or projections.

2. If a facility violates any provision in this chapter or fails to comply with a corrective action plan, its license or certification may be suspended or revoked.

3. If an applicant fails to provide a complete application within seven (7) days of being notified that an application is incomplete, the license or certification for which the applicant is applying will be denied.

4. If a facility is granted a license or certification but has not passed a commencement inspection within one (1) year of the department issuing the license or certification, the license or certification may be revoked.

5. If a facility fails to comply with a department order to immediately suspend all or a part of its operations, the license or certification shall be revoked.

6. If an application does not meet the minimum standards for licenses and certifications pursuant to 19 CSR 30-95.025(4), the license or certification for which the applicant is applying will be denied.

7. If a facility uses combustible gases or other dangerous materials to extract resins from marijuana without a manufacturing facility license, the facility's license may be suspended for up to one (1) year.

8. If a facility packages medical marijuana in a false or misleading manner, or in any manner designed to cause confusion between a marijuana product and any product not containing marijuana, the facility's license may be suspended or revoked.

9. If a facility or a facility employee fails to comply with seed-to-sale tracking requirements or intentionally misuses or falsifies seed-to-sale tracking data, the facility's license may be revoked.

(G) Cultivation, infused product manufacturing, and dispensary licenses and testing and transportation certifications are valid for three (3) years from the date the license or certification is issued and shall, except for good cause, be renewable by submitting, prior to expiration by at least one hundred fifty (150) days but no sooner than two hundred fifty (250) days, an updated application, which shall include any information required by Section (2) of this rule or Section (4) of 19 CSR 30-95.025 that has changed since the date of the previous application;

(H) The department shall charge an application or renewal fee for a facility license or certification and also an annual fee once a license or certification is granted. The first annual fee will be due thirty (30) days after a license or certification is issued and shall be due annually on that same date as long as the facility's license or certification remains valid. The department shall

publish the current fees, including any adjustments, on its website. The amount of fees due for each facility will be the amount that is effective as of that facility's due date.

(2) Application Requirements. Facilities must obtain a license or certification to cultivate, manufacture, dispense, test, and transport medical marijuana in Missouri. All applications for facility licenses or certifications and for renewals of licenses or certifications shall include at least the following information:

(A) Name and address of the primary contact for the applicant facility;

(B) Legal name of the facility, including fictitious business names, and a certificate of good standing from the Missouri Secretary of State;

(C) A completed Ownership Structure Form, included herein, which must show the applicant entity is majority owned by Missouri residents, and a written description or visual representation of the facility's ownership structure including all entities listed on the Ownership Structure Form;

(D) For each owner claiming Missouri residency for purposes of subsection (C) of this section, a statement that the owner has resided in Missouri for at least one (1) year and does not claim resident privileges in another state or country, as well as proof of current Missouri residency, which shall be shown by—

1. A copy of a valid Missouri driver's license, a Missouri Identification Card, a current Missouri motor vehicle registration, or a recent Missouri utility bill; or

2. If none of these proofs are available, some other evidence of residence in Missouri, which shall be approved or denied at the discretion of the director of the medical marijuana program as sufficient proof of residency;

(E) A list of all facilities licensed or certified or applying for licensure or certification in Missouri to cultivate, manufacture, dispense, or test medical marijuana that are or will be under substantially common control, ownership, or management as the applicant. For each facility listed, a written explanation of how the facility is under substantially common control, ownership, or management as the applicant, with supporting documentation;

(F) Proposed address of the facility and—

1. A map of the surrounding area that shows compliance with the facility location requirements of Section (4)(B) of this rule or 19 CSR 30-95.100(2)(C); or

2. Documentation showing a local government requirement different than the requirement in Section (4)(B) of this rule or 19 CSR 30-95.100(2)(C) and a map of the surrounding area that shows compliance with the facility location requirements of the local government; and

3. An attestation that the proposed address of the facility complies with the facility location requirements of Section (4)(B) of this rule or 19 CSR 30-95.100(2)(C);

(G) Descriptions, schematics, or blueprints for the facility;

(H) If the city, town, or county in which the facility will be located has enacted zoning restrictions applicable to the facility, the text of the restrictions and a description of how the facility plans to comply with those restrictions;

(I) An attestation that no individual who owns the facility, in whole or in part, has a disqualifying felony offense;

(J) A statement confirming that all owners who hold any portion of the economic or voting interest of the facility who will also have access to medical marijuana or the medical marijuana facility, and all officers, directors, board members, managers, and employees identified in the application, have submitted fingerprints within the previous six months for a state and federal

fingerprint-based criminal background check to be conducted by the Missouri State Highway Patrol;

(K) All facility evaluation information required by 19 CSR 30-95025(4); and

(L) All applicable fees or proof that all applicable fees have already been paid.

(3) Facility Ownership and Employment.

(A) Cultivation, infused products manufacturing, dispensary, testing, and transportation facilities shall not be owned by, in whole or in part, or have as an officer, director, board member, manager, or employee, any individual with a disqualifying felony offense.

(B) Cultivation, infused products manufacturing, dispensary, testing, and transportation facilities shall be held by entities that are majority owned by natural persons who have been citizens of the state of Missouri for at least one (1) year prior to applying for a facility license or certification. For the purposes of this requirement, citizen means resident.

(C) No more than three (3) cultivation, no more than three (3) manufacturing, and no more than five (5) dispensary licenses shall be issued to any entity under substantially common control, ownership, or management. Any entity under substantially common control, ownership, or management that has applied for more than three (3) cultivation, three (3) manufacturing, or five (5) dispensary licenses shall contact the department at the time of application submission to identify for the department the applications associated with that entity. The department will use this information, once application scoring is complete pursuant to 19 CSR 30-95.025(4), solely for determining how many licenses the department may issue any particular entity.

(D) No testing facility shall be owned by an entity under substantially common control, ownership, or management as a cultivation, manufacturing, or dispensary facility.

(E) Facility Agent Identification Cards. Each owner, officer, manager, contractor, employee, and other support staff of a licensed or certified cultivation, dispensary, manufacturing, testing, or transportation facility shall obtain an agent identification card, which shall be assigned and display a unique, identifying number. For all such individuals associated with an entity at the time it is licensed or certified, any work they are performing for that entity may continue, but application for an agent identification card must be made within thirty (30) days of a license or certification being granted. For all other such individuals, applications for agent identification cards will be accepted only after an individual receives an offer of employment from a licensed or certified facility, and for those individuals, agent identification cards must be granted before they may begin employment with a licensed or certified entity.

1. All applications for agent identification cards and renewals of agent identification cards shall include at least the following information in a department-approved format:

A. Name, address, and Social Security number of the applicant;

B. A statement confirming that the applicant has submitted fingerprints within the previous six (6) months for a state and federal fingerprint-based criminal background check to be conducted by the Missouri State Highway Patrol;

C. A copy of a written offer of employment from a licensed or certified facility; and

D. All applicable fees.

2. Agent identification cards shall be valid for three (3) years.

3. If arrested for a disqualifying felony offense, agent identification card holders must notify the department within thirty (30) days of the arrest.

4. For purposes of this section, a contractor is a person or company that undertakes a contract with a licensed or certified facility to perform work that would include access to medical marijuana or related equipment or supplies for a time period greater than fourteen (14) days.

5. For purposes of this section, an owner is a person who holds any portion of the economic or voting interests of a facility and who will have access to medical marijuana or a medical marijuana facility.

6. Agent identification card holders must have their cards accessible to them at all times while performing work in or on behalf of a facility.

7. The department shall charge a fee for identification cards, which shall be seventy-five (75) dollars, due at the time of application or renewal.

(4) Facility Operation, Policies, and Procedures.

(A) Each cultivation, infused product manufacturing, or dispensary facility in operation must obtain a separate license, but multiple licenses may be utilized in a single facility. All licenses shall be displayed at all times within twenty (20) feet of the main entrance to a facility.

(B) Unless expressly allowed by the local government, no new cultivation, infused products manufacturing, dispensary, or testing facility shall be sited, at the time of application for license or for local zoning approval, whichever is earlier, within one thousand (1,000) feet of any then-existing elementary or secondary school, daycare, or church.

1. In the case of a freestanding facility, the distance between the facility and the school, daycare, or church shall be measured from the external wall of the facility structure closest in proximity to the school, daycare, or church to the closest point of the property line of the school, daycare, or church. If the school, daycare, or church is part of a larger structure, such as an office building or strip mall, the distance shall be measured to the entrance or exit of the school, daycare, or church closest in proximity to the facility.

2. In the case of a facility that is part of a larger structure, such as an office building or strip mall, the distance between the facility and the school, daycare, or church shall be measured from the property line of the school, daycare, or church to the facility's entrance or exit closest in proximity to the school, daycare, or church. If the school, daycare, or church is part of a larger structure, such as an office building or strip mall, the distance shall be measured to the entrance or exit of the school, daycare, or church closest in proximity to the facility.

3. Measurements shall be made along the shortest path between the demarcation points that can be lawfully traveled by foot.

(C) All licensed or certified cultivation, dispensary, manufacturing, testing, and transportation facilities must seek and obtain the department's approval before they may—

1. Assign, sell, give, lease, sublicense, or otherwise transfer its license to any other entity.

A. If the entity to which the license or certification will be transferred is owned by the same entities as was the entity to which the department originally issued the license or certification, the request may be submitted after the facility at issue has been granted a license and must include at least the following:

(I) Legal name of the facility, including fictitious business names, and a certificate of good standing from the Missouri Secretary of State;

(II) A completed Ownership Structure Form, included herein, which must show the applicant entity is owned by the same entities as was the entity to which the department originally issued the license or certification;

B. If the entity to which the license or certification will be transferred is not owned by the same entities as was the entity to which the department originally issued the license or certification, the request may be submitted beginning January 1, 2021, and shall include at least the same information required for an initial application for license or certification;

2. Make any changes to ten (10) percent or more of the ownership interests of the facility. Such requests may be submitted after the facilities at issue have been granted a license and must include at least the following:

A. Name of each new owner, if any;

B. An updated Ownership Structure Form, included herein, which must show the applicant entity is majority owned by Missouri residents, and a written description or visual representation of the facility's ownership structure including all entities listed on the Ownership Structure Form;

C. For each owner claiming Missouri residency for purposes of subparagraph B of this paragraph, a statement that the owner has resided in Missouri for at least one (1) year and does not claim resident privileges in another state or country, as well as proof of current Missouri residency, which shall be shown by—

(I) A copy of a valid Missouri driver's license, a Missouri Identification Card, a current Missouri motor vehicle registration, or a recent Missouri utility bill; or

(II) If none of these proofs are available, some other evidence of residence in Missouri, which shall be approved or denied at the discretion of the director of the medical marijuana program as sufficient proof of residency;

D. A list of all facilities licensed or certified or applying for licensure or certification in Missouri to cultivate, manufacture, dispense, or test medical marijuana that are or will be under substantially common control, ownership, or management as the applicant. For each facility listed, an explanation of how the facility is under substantially common control, ownership, or management as the applicant, with supporting documentation;

E. An attestation that no individual who owns the facility, in whole or in part, has a disqualifying felony offense; and

F. A statement confirming that all owners who hold any portion of the economic or voting interest of a facility who will also have access to medical marijuana or a medical marijuana facility, and all officers, directors, board members, managers, and employees identified in the application have submitted fingerprints within the previous six months for a state and federal fingerprint-based criminal background check to be conducted by the Missouri State Highway Patrol;

3. Materially deviate from the proposed physical design or make material changes to the current physical design of the facility, including its location. Such requests may be submitted after the facilities at issue have been granted a license and shall include at least the following:

A. New or updated descriptions, schematics, or blueprints for the facility;

B. An attestation that the proposed changes to the facility comply with the facility location requirements of Section (4)(B) of this rule or 19 CSR 30-95.100(2)(C) and any facility location requirements of the local government;

C. If the city, town, or county in which the facility will be located has enacted zoning restrictions applicable to the facility, the text of the restrictions and a description of how the changes to the facility comply with those restrictions; and

D. For location change requests, an explanation for why the facility's original location is no longer possible and proof that claims made in the facility's initial licensure application regarding benefits of its original location also apply to the facility's newly proposed location.

4. Combine licensed facilities at a single location. Such requests may be submitted after the facilities at issue have been granted a license and shall include at least the following:

A. Descriptions, schematics, or blueprints for the combined facilities;

B. An attestation that the proposed combination of facilities complies with the facility location requirements of Section (4)(B) of this rule or 19 CSR 30-95.100(2)(C) and any location requirements of the local government;

C. If the city, town, or county in which the combined facilities will be located has enacted zoning restrictions applicable to the combined facilities, the text of the restrictions and a description of how the combined facilities will comply with those restrictions; and

D. If the combination of facilities is between two or more entities with different ownership, documents showing the agreements between the entities concerning their respective roles and their relationship in regard to management, operation, and maintenance of the combined facility. Such agreements shall include an acknowledgment that all entities sharing management, operations, or maintenance of the combined facility shall be jointly responsible for compliance with the applicable department regulations for the shared spaces of the combined facility; or

5. Begin construction on a warehouse sited at a location other than the approved location of the facility. Such requests may be submitted after the facility at issue has been granted a license and shall include at least the following:

A. Descriptions, schematics, or blueprints for the warehouse;

B. An attestation that the proposed location for the warehouse complies with the facility location requirements of Section (4)(B) of this rule or 19 CSR 30-95.100(2)(C) and any location requirements of the local government that would apply to the facility for which the warehouse is being constructed;

C. If the city, town, or county in which the warehouse will be located has enacted zoning restrictions applicable to the facility for which the warehouse is being constructed, the text of the restrictions and a description of how the warehouse will comply with those restrictions; and

D. An attestation that the warehouse will comply with all other rules applicable to the facility for which the warehouse is being constructed.

(D) All marijuana for medical use, including plants, flowers, and infused products, sold in Missouri shall be cultivated in a licensed cultivation facility located in Missouri. After December 31, 2020, marijuana for medical use shall be grown from seeds or plants obtained from a Missouri licensed cultivation or dispensary facility.

(E) Any excess or unusable medical marijuana or medical marijuana byproduct of a cultivation, manufacturing, dispensary, testing, or transportation facility shall be disposed of in the following manner, as applicable:

1. Solid and liquid wastes generated during medical marijuana production and processing must be stored, managed, and disposed of in accordance with applicable state, tribal, local, and municipal laws and regulations. Facilities must keep records of the final disposal destinations of all such wastes for at least five (5) years.

2. Wastewater generated during medical marijuana production and processing must be disposed of in compliance with applicable state, tribal, local, and municipal laws and regulations.

3. Wastes from the production and processing of medical marijuana plants must be evaluated against state hazardous waste regulations to determine if those wastes qualify as hazardous

waste. It is the responsibility of each waste generator to properly evaluate their waste to determine if it is a hazardous waste per 40 CFR 262.11. If a generator's waste does qualify as a hazardous waste, then that waste is subject to the applicable hazardous waste management standards.

A. All solid waste, as defined by 40 CFR 261.2, must be evaluated under the hazardous waste regulations, including:

(I) Waste from medical marijuana flowers, trim, and solid plant material used to create an extract;

(II) Waste solvents, pesticides, and other similar materials used in the cultivation, manufacturing, or testing process;

(III) Discarded plant waste, spent solvents, and laboratory wastes from any medical marijuana processing or quality assurance testing; and

(IV) Medical marijuana extract that fails to meet quality testing.

B. Medical marijuana flowers, trim, and solid plant material are not in themselves considered hazardous waste unless they have been treated or contaminated with a hazardous waste constituent.

4. Medical marijuana waste that does not qualify as hazardous waste per 40 CFR 262.11 must be rendered unusable prior to leaving a facility, including plant waste, such as roots, stalks, leaves, and stems.

5. Medical marijuana plant waste that does not qualify as hazardous may be rendered unusable by grinding and incorporating the medical marijuana plant waste with other nonhazardous ground materials so the resulting mixture is at least fifty percent nonmarijuana waste by volume. Material used to grind with the medical marijuana may be either compostable waste or noncompostable waste. Other methods to render medical marijuana waste unusable must be approved by the department before implementation.

A. Compostable mixed waste: Medical marijuana waste to be disposed as compost feedstock or in another organic waste method (for example, anaerobic digester) may be mixed with the following types of waste materials:

(I) Food waste;

(II) Yard waste; or

(III) Vegetable based grease or oils.

B. Noncompostable mixed waste: Medical marijuana waste to be disposed in a landfill or another disposal method (for example, incinerator) may be mixed with the following types of waste materials:

(I) Paper waste;

(II) Cardboard waste;

(III) Plastic waste; or

(IV) Soil.

6. Medical marijuana waste that has been rendered unusable may be delivered to a permitted solid waste facility for final disposition. Examples of acceptable permitted solid waste facilities include:

A. For compostable mixed waste: Compost, anaerobic digester, or other facility with approval of the local health department.

B. For noncompostable mixed waste: Landfill, incinerator, or other facility with approval of the local health department.

7. All facility waste of any type must be stored securely before final disposition, which can be done within the facility in areas designated for disposal activities or, if necessary, outside the facility in a locked, tamper-resistant receptacle.

(F) All cultivation, manufacturing, dispensary, testing, and transportation facilities must establish and follow procedures to ensure medical marijuana remains free from contaminants. The procedures must address, at a minimum:

1. The flow through a facility of any equipment or supplies that will come in contact with medical marijuana including receipt and storage;
2. Employee health and sanitation;
3. Environmental factors, such as:
 - A. Floors, walls, and ceilings made of smooth, hard surfaces that are easily cleaned;
 - B. Temperature and humidity controls;
 - C. A system for monitoring environmental conditions;
 - D. A system for cleaning and sanitizing rooms and equipment;
 - E. A system for maintaining any equipment used to control sanitary conditions; and
 - F. For cultivation and manufacturing facilities, an air supply filtered through high-efficiency particulate air filters under positive pressure.

(G) All cultivation, infused products manufacturing, dispensary, testing, and transportation facilities shall implement inventory control systems and procedures as follows:

1. Each facility shall designate in writing a facility agent who is generally responsible for the inventory control systems and procedures for that facility.
2. All weighing and measuring of medical marijuana required by this rule must be conducted with a National Type Evaluation Program approved scale, which shall be capable of weighing and measuring accurately at all times and recalibrated at least yearly.
3. Each facility shall use a department-certified seed-to-sale tracking system to track medical marijuana from seed or immature plant stage until the medical marijuana is purchased by a qualifying patient or primary caregiver or destroyed. Records entered into the seed-to-sale tracking system must include each day's beginning inventory, harvests, acquisitions, sales, disbursements, remediations, disposals, transfers, ending inventory, and any other data necessary for inventory control records in the statewide track and trace system.
4. Each infused product manufacturing facility shall:
 - A. Establish and maintain a perpetual inventory system that documents the flow of materials through the manufacturing process;
 - B. Establish procedures to reconcile the raw material used to the finished product on the basis of each process lot. Significant variances must be documented, investigated by management personnel, and reported to the department and to the facility that ordered the infused product within twenty-four (24) hours of discovering the variances; and
 - C. Provide for quarterly physical inventory counts to be performed by facility employees who do not participate in the manufacturing process, which shall be reconciled to the perpetual inventory records. Significant variances must be documented, investigated by management personnel, and reported to the department within twenty-four (24) hours of discovering the variances.
5. Each dispensary facility shall be responsible for ensuring that every amount of medical marijuana sold or disbursed to a qualifying patient or primary caregiver is recorded in the seed-to-sale tracking system as a purchase by or on behalf of the applicable qualifying patient. Amounts of medical marijuana shall be recorded—

- A. For dried, unprocessed marijuana, in ounces or grams;
- B. For concentrates, in grams;
- C. For infused products, by milligrams of THC.

6. If a facility identifies a reduction in the amount of medical marijuana in the inventory of the facility, the facility must document where in the facility's processes the loss has occurred, if possible, and take and document corrective action. If the reduction in the amount of medical marijuana in the inventory of the facility is due to suspected criminal activity by a facility agent, the facility shall report the facility agent to the department and to the appropriate law enforcement agencies within twenty-four (24) hours of discovering the suspected criminal activity.

7. A medical marijuana facility shall maintain all records required by this subsection for at least five (5) years.

8. In case of seed-to-sale system failure or loss of connection to the statewide track and trace system, the facility may continue performing for up to five (5) hours all actions that are required to be tracked, except sales of medical marijuana or transfers of medical marijuana from the facility, as long as the facility records all necessary tracking information and enters that information into its seed-to-sale tracking system upon restoration of the system or into the statewide track and trace system upon restoration of the connection.

(H) All cultivation, infused products manufacturing, and dispensary facilities shall ensure the security of medical marijuana and facility employees by taking at least the following measures.

1. Facilities shall install and maintain security equipment designed to prevent unauthorized entrance into limited access areas and to prevent diversion and inversion of medical marijuana including:

A. Devices or a series of devices to detect unauthorized intrusion, which may include a signal system interconnected with a radio frequency method, such as cellular or private radio signals, or other mechanical or electronic devices;

B. Except in the case of outdoor cultivation, exterior lighting to facilitate surveillance, which shall cover the exterior and perimeter of the facility;

C. Electronic video monitoring, including—

(I) At least one (1) call-up monitor that is nineteen (19) inches or more;

(II) A printer capable of immediately producing a clear still photo from any video camera image;

(III) Video cameras with a recording resolution of at least 1920 x 1080, or the equivalent, at a rate of at least fifteen (15) frames per second, that operate in such a way as to allow identification of people and activities in the monitored space, in all lighting levels, that are capable of being accessed remotely by the department or a law enforcement agency in real time upon request, and that provide coverage of—

(a) All entrances and exits of the facility, including windows, and all entrances and exits from limited access areas;

(b) The perimeter and exterior areas of the facility, including at least twenty (20) feet of space around the perimeter of an outdoor grow area;

(c) Each point-of-sale location;

(d) All vaults or safes; and

(e) All medical marijuana, from at least two (2) angles, where it is cultivated, cured, trimmed, processed, rendered unusable, and disposed;

(IV) A method for storing recordings from the video cameras for at sixty (60) days in a secure on-site or off-site location or through a service or network that provides on-demand access to the recordings and that allows for providing copies of the recordings to the department upon request and at the expense of the facility;

(V) A failure notification system that provides an audible and visual notification of any failure in the electronic monitoring system; and

(VI) Sufficient battery backup for video cameras and recording equipment to support at least sixty (60) minutes of recording in the event of a power outage;

D. Controlled entry to limited access areas, which shall be controlled by electronic card access systems, biometric identification systems, or other equivalent means, except that, in addition to these means, all external access doors shall be equipped with a locking mechanism that may be used in case of power failure. Access information shall be recorded, and all records of entry shall be maintained for at least one (1) year;

E. A method of immediate, automatic notification to alert local law enforcement agencies of an unauthorized breach of security at the facility; and

F. Manual, silent alarms at each point-of-sale, reception area, vault, and electronic monitoring station with capability of alerting local law enforcement agencies immediately of an unauthorized breach of security at the facility.

2. Facilities shall establish policies and procedures:

A. For restricting access to the areas of the facility that contain medical marijuana to only persons authorized to be in those areas, which shall include, when necessary for business purposes, contractors hired for no more than fourteen (14) days and other visitors, all of which may enter the restricted area if they sign in and sign out of a visitor log and are escorted at all times by facility agents in a ratio of no less than one (1) facility agent per five (5) visitors;

B. For identifying persons authorized to be in the areas of the facility that contain medical marijuana;

C. For identifying facility agents responsible for inventory control activities;

D. For limiting the amount of money available in any retail areas of the facility and for notifying the public that there is a minimal amount of money available, including by posting of a sign;

E. For electronic monitoring;

F. For the use of the automatic or electronic notification and manual, silent alarms to alert local law enforcement agencies of an unauthorized breach of security at the facility, including designation of on-call facility personnel to respond to, and to be available to law enforcement personnel who respond to, any alarms; and

G. For keeping local law enforcement updated on whether the facility employs armed security personnel and how law enforcement can identify such personnel on sight.

3. Facilities with outdoor cultivation shall construct an exterior barrier around the perimeter of the marijuana cultivation area that consists of a fence that is:

A. Constructed of six (6) gauge metal or stronger chain link;

B. Topped with razor wire or similar security wire;

C. At least eight (8) feet in height; and

D. Screened such that the cultivation area is not easily viewed from outside the fence;

4. Facilities with windows in a limited access area must ensure either that the window cannot be opened and is designed to prevent intrusion or that the window is otherwise inaccessible from the outside.

5. Facilities shall ensure that each video camera used pursuant to this section:

A. Includes a date and time generator which possesses the capability to accurately display the date and time of recorded events on the recording in a manner that does not significantly obstruct the recorded view; and

B. Is installed in a manner that will prevent the video camera from being readily obstructed, tampered with, or disabled;

6. A facility shall make a reasonable effort to repair any malfunction of security equipment within seventy-two (72) hours after the malfunction is discovered. A facility shall notify the department within twenty-four (24) hours after a malfunction is discovered and provide a plan of correction.

A. If a video camera used pursuant this section malfunctions, the facility shall immediately provide alternative video camera coverage or use other security measures until video camera coverage can be restored, such as assigning additional supervisory or security personnel, to provide for the security of the facility. If the facility uses other security measures, the facility must immediately notify the department, and the department will determine whether the other security measures are adequate and for what amount of time those other security measures will be acceptable.

B. Each facility shall maintain a log that documents each malfunction and repair of the security equipment of the facility. The log must state the date, time, and nature of each malfunction; the efforts taken to repair the malfunction and the date of each effort; the reason for any delay in repairing the malfunction; the date the malfunction is repaired and; if applicable, any alternative security measures that were taken. The log must also list, by date and time, all communications with the department concerning each malfunction and corrective action. The facility shall maintain the log for at least one (1) year after the date of last entry in the log;

7. Each facility shall employ a security manager who shall be responsible for:

A. Conducting a semiannual audit of security measures to ensure compliance with this subsection and to identify potential security issues;

B. Training employees on security measures, emergency response, and theft prevention and response within one (1) week of hiring and on an annual basis;

C. Evaluating the credentials of any contractors who intend to provide services to the facility before the contractor is hired by or enters into a contract with the facility; and

D. Evaluating the credentials of any third party who intends to provide security to the facility before the third party is hired by or enters into a contract with the facility;

8. Each facility shall ensure that the security manager of the facility, any facility agents who provide security for the facility, and the employees of any third party who provides security to the facility have completed the following training:

A. Training in theft prevention or a related subject;

B. Training in emergency response or a related subject;

C. Training in the appropriate use of force or a related subject that covers when the use of force is and is not necessary;

D. Training in the protection of a crime scene or a related subject;

E. Training in the control of access to protected areas of a facility or a related subject;

F. Not less than eight (8) hours of training at the facility in providing security services; and

G. Not less than eight (8) hours of classroom training in providing security services.

(I) The department may issue public notice of a medical marijuana recall if, in its judgment, any particular medical marijuana presents a threat to the health and safety of qualifying patients. All

facilities are responsible for complying with recall notices. Recalled items must be immediately pulled from production or inventory and held until such time as the department determines the item is safe, may be remediated, or must be destroyed.

(J) Medical marijuana that fails testing or is subject to a recall must either be destroyed by any facility in possession of that medical marijuana or, at the election of the facility from which the failed test or recalled item originated, and with approval of the department, may be remediated, if possible.

1. Remediated medical marijuana must pass all testing required by 19 CSR 30-95.070;
2. Facilities may only elect to remediate any particular medical marijuana once.

(K) All cultivation, infused products manufacturing, and dispensary facilities shall ensure that all medical marijuana is packaged and labeled in a manner consistent with the following

1. Facilities shall not manufacture, package, or label marijuana--
 - A. In a false or misleading manner;
 - B. In any manner designed to cause confusion between a marijuana product and any product not containing marijuana; or
 - C. In any manner designed to appeal to a minor.
2. Marijuana and marijuana-infused products shall be sold in containers clearly and conspicuously labeled, in a font size at least as large as the largest other font size used on the package, with:
 - A. "Marijuana" or a "Marijuana-infused Product;" and
 - B. "Warning: Cognitive and physical impairment may result from the use of Marijuana."
3. Any marijuana or marijuana-infused products packaged for retail sale before delivery to a dispensary must be packaged in opaque, re-sealable packaging designed or constructed to be significantly difficult for children under five (5) years of age to open but not normally difficult for adults to use properly. Any marijuana or marijuana-infused products not packaged for retail sale before delivery to a dispensary must be packaged by the dispensary upon sale to a qualifying patient or primary caregiver in opaque, re-sealable packaging designed or constructed to be significantly difficult for children under five (5) years of age to open but not normally difficult for adults to use properly. All edible marijuana-infused products must be packaged for retail by the infused-products manufacturer before transfer to a dispensary.
4. Marijuana and marijuana-infused products shall bear a label displaying the following information, in the following order:
 - A. The total weight of the marijuana included in the package;
 - (I) For dried, unprocessed marijuana, weight shall be listed in ounces or grams;
 - (II) For concentrates, weight shall be listed in grams;
 - (III) For infused products, weight shall be listed by milligrams of THC;
 - B. Dosage amounts, instructions for use, and estimated length of time the dosage will have an effect;
 - C. The THC, tetrahydrocannabinol acid, cannabidiol, cannabidiol acid, and cannabitol concentration per dosage;
 - D. All active and inactive ingredients, which shall not include groupings of ingredients that obscure the actual ingredients, such as "proprietary blend" or "spices";
 - E. In the case of dried, unprocessed marijuana, the name, as recorded with the Missouri Secretary of State, of the cultivating facility from which the marijuana in the package originated and, in the case of infused products, the name of the infused-product manufacturer, as recorded with the Missouri Secretary of State; and

F. A “best if used by” date.

5. No branding, artwork, or other information or design elements included on marijuana or marijuana-infused products shall be placed in such a way as to obscure any of the information required by this section.

6. Marijuana and marijuana-infused product packaging shall not include claims of health benefits but may include health warnings.

7. Marijuana and marijuana-infused products must, at all times, be tagged with traceability information generated by the statewide track and trace system.

(L) Cultivation, manufacturing, dispensary, and testing facilities that transport medical marijuana must also comply with 19 CSR 30-95.100(D) in doing so.

(M) Signage and advertising on facility premises must comply with the following:

1. A facility may not display marijuana, marijuana paraphernalia, or advertisements for these items in a way that is visible to the general public from a public right-of-way.

2. Outdoor signage and, if visible to the public, interior signage, must comply with any local ordinances for signs or advertising and:

A. May not display any text other than the facility’s business name or trade name, address, phone number, and website; and

B. May not utilize images or visual representations of marijuana plants, products, or paraphernalia, including representations that indicate the presence of these items, such as smoke.

(5) Facility Inspections.

(A) Submission of an application for a facility license or certification constitutes consent to inspection by the department. A department inspector conducting an inspection pursuant to this section need not give prior notice of the inspection and, during the inspection, must be given access to all areas and property of the facility, including vehicles, wherever located, without delay.

1. The department will enter and inspect at least annually, with or without notice, to ensure compliance with this chapter.

2. The department may also, at any time it determines an inspection is needed, conduct an inspection, including an inspection of any part of the premises, qualifications of personnel, methods of operation, records, and policies and procedures of a licensed or certified facility.

(B) Once a licensed or certified facility believes it will, within a month, be ready to begin operations and meet all state and local requirements for its facility, it shall request that the department conduct a commencement inspection to confirm the facility is in compliance with all requirements of this chapter.

(C) Violations, Compliance Verification Inspections, and Suspension.

1. If the department determines, during an inspection or otherwise, that a facility is not in compliance with the department’s regulations, the department will issue an Initial Notice of Violation to the facility that explains how the facility has violated the department’s regulations and what remedial actions the department expects the facility to take to correct the violations.

2. Once a facility has been notified of violations, the facility shall correct the violations within fifteen (15) days, and the department will conduct a follow-up inspection within fifteen (15) to thirty (30) days to confirm the facility has corrected the violations. The facility shall notify the department if it believes it needs additional time to correct the violations, which the department may grant for good cause.

3. If the department's follow-up inspection reveals the violations have not been corrected, the department will issue a Final Notice of Violation to the facility explaining how the facility continues to violate the department's regulations, what remedial actions the department expects the facility to take, and notifying the facility that its license or certifications will be suspended if the specified remedial action is not taken and the violations corrected within thirty (30) days.

4. If the violations have not been corrected thirty (30) days after a Final Notice of Violation and no extension of this deadline has been granted by the department, the facility's license or certification will be suspended, the facility will be required to cease operations, and the facility must sign a corrective action plan designed to bring the facility into compliance.

(D) Upon receipt of complaint against a facility, the department will determine whether an inspection is warranted to investigate the allegations in the complaint, and, if so, the department will, at the time of inspection, provide the facility with a copy of the complaint and an opportunity to respond to the complaint. Employees of a facility who report potential violations by a facility to the department may not be subjected to retaliation of any kind, including termination, because of their report.

(E) If, at any time, the department determines a facility presents an immediate and serious threat to the health and safety of the public or of the facility's employees, the department may order the facility to immediately suspend all or a part of its operations until the threat has been eliminated.

AUTHORITY: Sections 1.3.(1)(b) and 1.3.(2) of Article XIV, Mo. Const. Original rule filed May 24, 2019. Emergency rule filed May 24, 2019, effective June 3, 2019, expires February 27, 2020.

PUBLIC COST: This proposed rule has an estimated cost to state agencies or political subdivisions of \$1,895,829 in the aggregate.

PRIVATE COST: This proposed rule has an estimated cost to private entities of at least \$176,318,000 in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with Lyndall Fraker, PO Box 570, Jefferson City, MO 65102 or via email at MMPublicComment@health.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*