Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 100—Division of Cannabis Regulation
Chapter 1—Marijuana

PROPOSED RULE

19 CSR 100-1.010 Definitions

PURPOSE: This rule defines terms used in Chapter 1.

(1) "Administer" means the direct application of marijuana by way of any of the following methods:

(A) Ingestion of capsules, teas, oils, and other marijuana-infused products;

(B) Vaporization or smoking of dried flowers, buds, plant material, extracts, oils, and other marijuana-infused products;

(C) Application of ointments or balms;

(D) Transdermal patches and suppositories;

(E) Consuming marijuana-infused food products; or

(F) Any other method recommended by a qualifying patient's physician or nurse practitioner.

(2) "Administrative hold" means a status given to marijuana product by the department during an investigation into alleged violations of the Article XIV and these rules. This status includes no sale or transfer of the marijuana product until the hold is lifted.

(3) "Advertisement" means any dissemination of information by print, audio, or video means, whether through the media or otherwise, including but not limited to radio, television, motion pictures, newspapers, internet, email, texting, website, mobile applications, magazines or similar publications or other printed or graphic matter, or any electronic means, except that the term shall not include:

(A) Any packaging or label affixed to packaging of marijuana product; and

(B) Any editorial in any periodical or publication or newspaper for the preparation or publication of which no money or other valuable consideration is paid or promised, directly or indirectly, by or on behalf of any entity subject to these regulations.

(4) "Applicant identifier" means a number assigned to an application for the purposes of conducting a lottery to award licenses or certifications.

(5) "Batch" means a specific, identified quantity of marijuana, from immature plant stage to harvest, that is uniform in strain, and cultivated utilizing the same growing practices.

(6) “Church” means a permanent building primarily and regularly used as a place of religious worship.

(7) “Clone” means a marijuana vegetative cutting.

(8) “Comprehensive Facility” means a comprehensive marijuana cultivation facility, comprehensive marijuana dispensary facility, or a comprehensive marijuana-infused products manufacturing facility.

(9) “Comprehensive Marijuana Cultivation Facility” means a facility licensed by the department where marijuana cultivation operations for medical or adult use occur.

(10) “Comprehensive Marijuana Cultivation Facility Licensee” means an entity licensed by the department to engage in the process of cultivating marijuana for medical or adult use at a comprehensive marijuana cultivation facility.

(11) “Comprehensive Marijuana Dispensary Facility” means a facility licensed by the department where marijuana product is dispensed for medical or adult use.

(12) “Comprehensive Marijuana Dispensary Facility Licensee” means an entity licensed by the department to engage in the process of dispensing marijuana product for medical or adult use at a comprehensive marijuana dispensary facility.

(13) “Comprehensive Marijuana-Infused Products Manufacturing Facility” means a facility licensed by the department where marijuana-infused products and prerolls are manufactured for medical or adult use.

(14) “Comprehensive Marijuana-Infused Products Manufacturing Facility Licensee” means an entity licensed by the department to engage in the process of manufacturing marijuana-infused products and prerolls for medical or adult use at a comprehensive marijuana-infused products manufacturing facility.

(15) “Consumer” means a person who is at least twenty-one years of age.

(16) “Cultivation Facility” means a medical marijuana cultivation facility, a comprehensive marijuana cultivation facility, or a microbusiness wholesale facility licensed to cultivate marijuana.

(17) “Dangerous Material” means any substance or material that is capable of posing an unreasonable risk to health, safety, and property.

(18) “Daycare” means a child-care facility, as defined by section 210.201, RSMo., or its successor provisions, that is licensed by the state of Missouri.

(19) “Delivery” means the movement of marijuana from a dispensary facility to a consumer, qualifying patient, or primary caregiver.

(20) “Department” means the Department of Health and Senior Services, or its successor agency.

(21) “Dispensary Facility” means a medical marijuana dispensary facility, a comprehensive marijuana dispensary facility, or a microbusiness dispensary facility.

(22) “Disqualifying felony offense” means a violation of, and conviction of or guilty plea to, state or federal law that is, or would have been, a felony under Missouri law, regardless of the sentence imposed. Exceptions for both medical and marijuana facility owners can be found in Article XIV of the Missouri Constitution.

(23) “Dried, unprocessed marijuana or its equivalent” means the marijuana flower after it has been cured and trimmed, or its equivalent amount of marijuana concentrate or tetrahydrocannabinol (THC) content. For purposes of purchase and possession limitations, one (1) ounce of dried, unprocessed marijuana is equivalent to eight (8) grams of marijuana concentrate or eight hundred (800) milligrams of THC in infused products.

(24) “Elementary or secondary school” means any public school as defined in section 160.011, RSMo, or any private school giving instruction in a grade or grades not higher than the twelfth grade, including any property owned by the public or private school that is regularly used for extracurricular activities, but does not include any private school in which education is primarily conducted in private homes.

(25) “Enclosed, locked facility” means a stationary, fully enclosed, locked space:
(A) Equipped with functioning security devices that permit access to only the consumer(s), qualifying patient(s), or primary caregiver(s) who have informed the department that this is the space where they will cultivate marijuana; and
(B) Where plants are not be visible to the unaided eye from a public space.

(26) “Entity” means a natural person, corporation, professional corporation, nonprofit corporation, cooperative corporation, unincorporated association, business trust, limited liability company, general or limited partnership, limited liability partnership, joint venture, or any other legal entity.

(27) “Facility” means the physical structure(s), including strip malls, and the premises on which the physical structures are located which are used by a licensed or certified entity to perform its licensed or certified functions, whether the entity is licensed or certified as a medical facility or a marijuana facility.

(28) “Facility Agent” means an individual who holds an agent identification card issued by the department.

(29) “Financial interest” all the economic rights and benefits owed to the holder of an equity ownership position in an entity.

(30) "Final marijuana product" means marijuana product that is intended for human use and includes all ingredients whether or not the ingredients contain cannabinoids. Where marijuana will be sold in a method of administration, the marijuana product must be processed into its method of administration before it is a final marijuana product.

(31) “Flowering plant” means a marijuana plant from the time it exhibits the first signs of sexual maturity through harvest.

(32) “Flowering Plant Canopy Space” means a space dedicated to growing flowering marijuana plants. Flowering plant canopy space is calculated in square feet and is measured from the outermost point of a flowering plant in a designated growing area and continuing around the outside of all flowering plants in that designated growing area, but not including space allocated for walkways or ancillary equipment. This space may be spread over a single tier or multiple tiers. If growing spaces are stacked vertically, each level of space shall be measured and included as part of the total flowering plant canopy space measurement. When measuring flowering plant canopy space before flowering plants are in the space, the square footage is calculated by measuring the facility-designated growing area, but not including space allocated for walkways or ancillary equipment.

(33) “Harvest lot” means a specifically identified quantity of marijuana that is uniform in strain, cultivated utilizing the same growing practices, harvested within a seventy-two (72-) hour period at the same location, and cured under uniform conditions.

(34) “Homogeneity” means the amount of cannabinoids within a marijuana product being consistent and reasonably equally dispersed throughout the marijuana product, including each portion of the marijuana product.

(35) “Homogenization” means the process by which the components of a sample are broken apart into particles that are equal in size and evenly distributed.

(36) “Identification card” means a document, whether in paper or electronic format, issued by the department that authorizes a consumer cultivator, qualifying patient, primary caregiver, or facility agent to access marijuana as provided by law.

(37) “Immature plant” means a non-flowering marijuana plant no taller than eight (8) inches and no wider than eight (8) inches.

(38) “Infused Preroll” means a consumable or smokable marijuana product, generally consisting of:

(A) Wrap or paper;

(B) Dried flower, buds, and/or plant material; and

(C) A concentrate, oil, or other type of marijuana extract, either within or on the surface of the product

Infused prerolls may or may not include a filter or crutch at the base of the product.

(39) “Licensee” means an entity licensed or issued a certificate by the department under Article XIV of the Missouri Constitution.

(40) “Limited Access Area” means all areas within a facility other than any public access points where individuals are screened for approval to enter.

(41) “Local Government” means, in the case of an incorporated area, a village, town, or city; and, in the case of an unincorporated area, a county.

(42) “Majority owned” means more than fifty percent (50%) of the financial interests (other than a security interest, lien, or encumbrance) or more than fifty percent (50%) of the voting interests of an entity, including any parent and subsidiary entities.

(43) “Mandatory Test” means a test required before a marijuana product can be sold to consumers, qualifying patients, or primary caregivers, using a homogenized sample for analysis created from a harvest or process lot.

(44) “Manufacturing Facility” means a medical marijuana-infused products manufacturing facility, a comprehensive marijuana-infused products manufacturing facility, or a microbusiness wholesale facility licensed to manufacture marijuana.

(45) “Marijuana” or “Marihuana” means *Cannabis indica*, *Cannabis sativa*, and *Cannabis ruderalis*, hybrids of such species, and any other strains commonly understood within the scientific community to constitute marijuana, as well as seeds, clones, and resin extracted from the marijuana plant. “Marijuana” or “Marihuana” does not include industrial hemp as defined by Missouri statute, or commodities or products manufactured from industrial hemp.

(46) “Marijuana Facility” means a comprehensive marijuana cultivation facility, comprehensive marijuana dispensary facility, comprehensive marijuana-infused products manufacturing facility, marijuana testing facility, transportation facility, microbusiness wholesale facility, microbusiness dispensary facility, or any other

type of marijuana-related facility or business licensed or certified by the department pursuant to Article XIV, Section 2 of the Missouri Constitution, but shall not include a medical facility or marijuana research facility.

(47) "Marijuana-Infused Products" means products that are infused, dipped, coated, sprayed, or mixed with marijuana or an extract thereof, including, but not limited to, products that are able to be vaporized or smoked, edible products, ingestible products, topical products, suppositories, and infused prerolls.

(48) "Marijuana Microbusiness Facility" means a facility licensed by the department as a microbusiness dispensary facility or microbusiness wholesale facility.

(49) "Marijuana Product" means marijuana, marijuana-infused products, or other products made using marijuana, including prerolls, as those terms are defined herein, unless otherwise provided for in these rules.

(50) "Marijuana Research Facility" means a facility licensed by the department where activities intended to facilitate scientific research or education related to marijuana product occur.

(51) "Marijuana Research Facility Licensee" means an entity licensed by the department to engage in activities intended to facilitate scientific research or education related to marijuana product at a marijuana research facility.

(52) "Marijuana Testing Facility" means a facility certified by the department where marijuana product testing occurs.

(53) "Marijuana Testing Facility Certificate Holder" means an entity certified by the department to engage in the testing of marijuana product at a marijuana testing facility.

(54) "Medical Facility" means any medical marijuana cultivation facility, medical marijuana dispensary facility, or medical marijuana-infused products manufacturing facility.

(55) "Medical Marijuana Cultivation Facility" means a facility licensed by the department where marijuana cultivation operations occur that is limited to medical use.

(56) "Medical Marijuana Cultivation Facility Licensee" means an entity licensed by the department to engage in the process of cultivating marijuana that is limited to medical use at a medical marijuana cultivation facility.

(57) "Medical Marijuana Dispensary Facility" means a facility licensed by the department where marijuana is dispensed only for medical use.

(58) “Medical Marijuana Dispensary Facility Licensee” means an entity licensed by the department to engage in the process of dispensing marijuana for only medical use at a medical marijuana dispensary facility.

(59) “Medical Marijuana-Infused Products Manufacturing Facility” means a facility licensed by the department where marijuana-infused products and prerolls are manufactured only for medical use.

(60) “Medical Marijuana-Infused Products Manufacturing Facility Licensee” means an entity licensed by the department to engage in the process of manufacturing marijuana-infused products and prerolls only for medical use at a medical marijuana-infused products manufacturing facility.

(61) “Medical use” means the production, possession, delivery, distribution, transportation, or administration of marijuana or a marijuana-infused product, or drug paraphernalia used to administer marijuana or a marijuana-infused product, for the benefit of a qualifying patient to mitigate the symptoms or effects of the patient’s qualifying medical condition.

(62) “Method of Administration” means the tool(s) used to administer marijuana.

(63) “Microbusiness Dispensary Facility” means a microbusiness facility licensed by the department where marijuana is dispensed for medical or adult use.

(64) “Microbusiness Dispensary Facility Licensee” means an entity licensed by the department to engage in the process of dispensing marijuana for medical or adult use at a microbusiness dispensary facility.

(65) “Microbusiness Facility” means a microbusiness dispensary facility or a microbusiness wholesale facility.

(66) “Microbusiness Wholesale Facility” means a microbusiness facility licensed by the department where marijuana cultivation operations for medical or adult use occur and/or where marijuana-infused products and prerolls are manufactured for medical or adult use.

(67) “Microbusiness Wholesale Facility Licensee” means an entity licensed by the department to engage in the process of cultivating marijuana for medical or adult use and/or manufacturing marijuana-infused products and prerolls for medical or adult use at a microbusiness wholesale facility.

(68) “Non-emancipated qualifying patient” means a qualifying patient under the age of eighteen (18) who has not been emancipated under Missouri law.

(69) “Nurse Practitioner” means an individual who is licensed and in good standing as an advanced practice registered nurse, or successor designation, under Chapter 335 of the Revised Statutes of Missouri.

(70) “Owner,” means an individual or other entity having a financial or voting interest in ten percent or greater of a marijuana facility license.

(71) “Physician” means an individual who is licensed as a physician pursuant to Section 334.031, RSMo., and in good standing to practice medicine or osteopathy under Missouri law.

(72) “Physician or nurse practitioner certification” means a document, whether handwritten, electronic, or in another commonly used format, signed by a physician or nurse practitioner and stating that, in the physician’s or nurse practitioner’s professional opinion, the patient suffers from a qualifying medical condition.

(73) “Preroll” means a consumable or smokable marijuana product, generally consisting of:

(A) A wrap or paper; and

(B) Dried flower, buds, and/or plant material.

(74) “Primary caregiver” means an individual twenty-one (21) years of age or older who has significant responsibility for managing the well-being of a qualifying patient and who is designated as such on the primary caregiver’s application for an identification card under this section or in other written notification to the department.

(75) “Principal officers or managers” means persons who, regardless of title, have responsibility for supervising the management, administration, or operation of an entity, including, but not limited to: presidents, vice presidents, or general counsels; chief executive, financial, or operating officers; general partners, managing partners, or controlling partners; managing members; or trustees.

(76) “Process lot” means, once production is complete, any amount of marijuana concentrate or marijuana extract of the same type and processed using the same extraction methods, standard operating procedures, and harvest lots; or any amount of marijuana-infused product or prerolls of the same type and processed using the same ingredients, standard operating procedures, and harvest lots.

(77) “Product category” means a defined group of marijuana products that are in the same form, such as flower, concentrates, and infused products. Broad product categories may be further broken down into additional product categories such as vape cartridges and shake/trim.

(78) “Qualifying medical condition” means the condition of, symptoms related to, or side-effects from the treatment of:

(A) Cancer;

(B) Epilepsy;

(C) Glaucoma;

(D) Intractable migraines unresponsive to other treatment;

(E) A chronic medical condition that causes severe, persistent pain or persistent muscle spasms, including, but not limited to, those associated with multiple sclerosis, seizures, Parkinson’s disease, and Tourette’s syndrome;

(F) Debilitating psychiatric disorders, including, but not limited to, post-traumatic stress disorder, if diagnosed by a state licensed psychiatrist;

(G) Human immunodeficiency virus or acquired immune deficiency syndrome;

(H) A chronic medical condition that is normally treated with a prescription medication that could lead to physical or psychological dependence, when a physician or nurse practitioner determines that medical use of marijuana could be effective in treating that condition and would serve as a safer alternative to the prescription medication;

(I) Any terminal illness; or

(J) In the professional judgment of a physician or nurse practitioner, any other chronic, debilitating or other medical condition, including, but not limited to, hepatitis C, amyotrophic lateral sclerosis, inflammatory bowel disease, Crohn’s disease, Huntington’s disease, autism, neuropathies, sickle cell anemia, agitation of Alzheimer’s disease, cachexia, and wasting syndrome.

(79) “Qualifying Patient” means an individual diagnosed with at least one (1) qualifying medical condition.

(80) “Quarantine” means to isolate a marijuana product or facility asset when it is deemed potentially unfit for use.

(81) “Seed-to-sale tracking system” means a software system designed to assist with functions necessary to fulfill a licensed or certified facility’s responsibilities in tracking marijuana from either the seed or immature plant stage until the marijuana is sold to a consumer, qualifying patient, or primary caregiver.

(82) “Signature” means a handwritten, typed, or electronic signature.

(83) “SOP” means standard operating procedure.

(84) “Statewide track and trace system” means the system the department uses to track marijuana from either the seed or immature plant stage until the marijuana is sold to a consumer, qualifying patient, or primary caregiver.

(85) “Substantially common control, ownership, or management” means the power to direct or cause the direction of the management or policies of a facility, in light of the totality of the circumstances, including through financial or voting interests, by contract, or otherwise.

(86) “Transfer” means the movement of marijuana between facilities.

(87) “Transportation” means the transfer or delivery of marijuana.

(88) “Transportation Facility” means a facility certified by the department to house operations involving the transport of marijuana product to or from a marijuana facility or medical facility; or to a qualifying patient, primary caregiver, or consumer.

(89) “Transportation Facility Licensee” means an entity certified by the department to engage in the transportation of marijuana product to or from a medical or marijuana facility; or to a qualifying patient, primary caregiver, or consumer.

(90) “Unit for sale” means an individual package of marijuana product intended to be sold to a consumer, qualifying patient, or primary caregiver.

AUTHORITY: Sections 1.3.(1)(b), 1.3.(2), 2.4(1)(b), and 2.4(4) of Article XIV, Mo. Const. Emergency rule filed January 20, 2023, effective February 3, 2023, expires August 1, 2023. Original rule filed January 20, 2023.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Health and Senior Services, 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.*

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 100—Division of Cannabis Regulation
Chapter 1—Marijuana

PROPOSED RULE

19 CSR 100-1.020 Generally Applicable Provisions

PURPOSE: The Department of Health and Senior Services has the authority to promulgate rules for the enforcement of Article XIV, Sections 1 and 2 of the Missouri Constitution. This rule applies to all individuals and entities regulated under Article XIV and explains what general provisions are necessary for the enforcement of the Article.

(1) Variances and Waivers.

(A) The department may waive or vary from, at its discretion and for good cause, provisions of this chapter, on its own initiative or by request.

(B) Requests for a waiver or variance from the requirements of any provision of this chapter shall be made in writing. Requests shall include:

1. An administrative and processing fee of one hundred dollars ($100);
2. A list of each requirement and specific rule for which a variance or waiver is requested;
3. A detailed explanation for why the applicant, ID card holder, or licensee believes there is good cause to vary from or waive the requirement; and
4. For a variance, a description of an adequate alternative the entity will implement in lieu of the rule requirement.

(C) No waiver or variance request is approved unless the department issues a written approval.

(2) Limitations on facility licenses:

(A) The department will restrict the aggregate number of medical and comprehensive licenses combined, as authorized by Article XIV, § 1.3(15-17).

(B) The department will restrict the number of microbusiness licenses granted, as authorized by Article XIV, § 2.4(13).

(C) The department shall issue additional medical or marijuana licenses if the department determines additional licenses are needed to:

1. Meet the demand for marijuana product;
2. Ensure a competitive market while also preventing an over-concentration of marijuana facilities within the boundaries of any particular local government; or
3. Maintain the minimum number of combined medical and comprehensive licenses required by Article XIV, § 1.3(15-17).

(3) In addition to other penalties specifically delineated in this chapter, the department may impose penalties on facility licenses and certifications as follows:

(A) Licenses and certifications found in violation of any rule in this chapter or provision in Article XIV may be subject to sanctions, including, but not limited to, any of the following:

1. Limitation or restriction on a license or certification;
2. Fines up to an amount equal to the daily gross receipts of the facility;
3. Revocation, suspension, or nonrenewal of a license or certification; and/or
4. Orders to immediately cease or suspend operations.

(B) Fines may be assessed for each day a licensee is in violation. Assessment of a fine does not bar additional penalties or investigation.

(C) A license will be revoked if, after issuance, the department determines the applicant provided false or misleading information in the application.

(D) The department may impose any other remedies not inconsistent with these rules or Article XIV.

(E) Prior to revoking or suspending a facility license, the Department shall issue a Notice of Pending Revocation to the designated contact for the licensee by sending such notice to the email address provided by the designated contact for the licensee. The notice shall list the basis for a pending revocation or suspension. Except where there is a credible and imminent threat to public safety, the revocation or suspension will not take effect until thirty (30) days from the date the notice is sent. During the thirty (30) day period, the licensee will have the opportunity to cure the deficiencies listed in the notice and/or respond to the allegations and submit records or information demonstrating why the license should not be revoked or suspended.

(4) Appeals.

(A) An applicant, licensee, or identification card holder may seek review of the following department decisions at the administrative hearing commission:

1. Denial of a facility license or certification;
2. Any penalties imposed by the department; and
3. Denial or revocation of patient, primary caregiver, patient cultivation, caregiver cultivation, consumer cultivation, or facility agent identification cards.

(B) Any person or entity entitled to a review under this rule must file a petition with the administrative hearing commission within thirty (30) days after the date the department decision is sent to the person or entity. An untimely appeal will not be considered.

(C) Notwithstanding the limits on licenses and certifications set forth in this rule, the department may grant additional facility licenses or certifications as a remedy to timely appeals when:

1. Ordered to do so by the administrative hearing commission or a court of competent jurisdiction; or

2. The department determines doing so in settlement of such an appeal best serves implementation of Article XIV.

(5) Marijuana Records

(A) Qualifying patient and primary caregiver information and proprietary business information maintained by the department shall not be released outside the department except for purposes authorized by federal law or Article XIV, including:

1. In response to a request by law enforcement officials seeking verification that a person who presented an identification card is lawfully in possession of such card and is lawfully in possession of a particular amount of marijuana product;

2. In response to a request by law enforcement officials seeking information during the process of requesting a search or arrest warrant relating to cultivation of marijuana plants;

3. For the purposes of a dispensary verifying whether a particular qualifying patient or primary caregiver may purchase an amount of marijuana product; and

4. In response to a valid grand jury, judicial, or law enforcement subpoena.

(6) Unless otherwise stated, any reference to days in this chapter will mean calendar days. In computing any period of time prescribed or allowed by the Department in this chapter, the designated period of time begins to run the day after the relevant act or event.

AUTHORITY: Sections 1.3.(1)(b), 1.3.(2), 2.4(1)(b), and 2.4(4) of Article XIV, Mo. Const. Emergency rule filed January 20, 2023, effective February 3, 2023, expires August 1, 2023. Original rule filed January 20, 2023.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rule will cost private entities three hundred thousand, eight-hundred twenty five dollars ($300,825) for the first three-year period, and one hundred thousand, two hundred seventy-five dollars ($100,275) annually thereafter.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Health and Senior

Services, 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.*

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 100—Division of Cannabis Regulation
Chapter 1—Marijuana

PROPOSED RULE

19 CSR 100-1.030 Complaints, Inspections, and Investigations

PURPOSE: Article XIV, Sections 1 and 2 of the Missouri Constitution authorizes the Department of Health and Senior Services to promulgate rules for the implementation and enforcement of the Article and to ensure the right to, availability, and safe use of marijuana product. This section applies to complaints, inspections, and investigations of licensed or certified facilities and identification card holders.

(1) Complaints. The department may receive complaints related to any licensed or certified medical and marijuana facilities, or any individual holding a department issued identification card. Complaints may be submitted through the department website.

(A) Upon receipt of a complaint, the department will determine whether the allegations in the complaint warrant further investigation. The department can either close the complaint or conduct an investigation.

(B) The complaint shall remain confidential until either the complaint is closed or an investigation is completed.

(C) Employees or former employees of a licensee who, in good faith, report potential rule violations to the department may not be subjected to retaliation of any kind because of their report.

(2) Inspections and Investigations.

(A) The department may conduct an investigation related to an individual card-holder if the department has reason to believe the individual has or is violating any rule in this chapter or provision of Article XIV that could affect the individual's right to continue holding the authority granted by the department.

(B) The department may conduct an inspection or investigation of a licensee or facility at any time, including an inspection of any part of the premises or records of a licensed or certified entity.

1. No medical or marijuana facility licensee may refuse representatives of the department the right to inspect the licensed premises of the facility or to audit records of the facility, including records created or maintained by a third party under an agreement with a facility licensee.

2. A department employee conducting an inspection or investigation may access all areas of the licensed or certified facility, including vehicles of the facility or any third party contractors, without a warrant and without prior notice to the licensee.

3. Licensed or certified entities must provide documents or records requested as part of an inspection or investigation within seven (7) days of the department issuing the request unless additional time is requested and granted.

A. Failure to timely provide requested documents or records may result in a fine of up to five thousand (5,000) dollars for every day the requested documents or records have not been provided after the deadline.

B. If a licensee fails to provide records, the department may impound, seize, assume control of, or summarily remove records from the licensed facility.

C. A department request for documents or records made as part of reviewing an application submitted by a licensee, such as a change request, shall be considered an inspection of records.

4. The department may request to interview any employees, contractors, owners, or volunteers of a licensed or certified facility, and the licensee shall arrange for the interview to occur as soon as possible but not later than seven (7) days after the department makes the request to the designated contact on file with the Department.

5. Upon receiving a notice of investigation, licensees must preserve all records of any type related to the subject of the investigation, including video camera recordings and facility access control records, until the licensee receives notice that the investigation is concluded.

6. As part of an investigation, the department may take any reasonable or appropriate action to enforce this chapter, including coordinating with law enforcement.

7. As part of an inspection or investigation, the department may direct the licensee to have marijuana product tested by a certified marijuana testing facility, at the cost of the licensee, when the department finds good cause to do so, which may include credible allegations of rule violations or other indications that the marijuana product does or would create a threat to the health or safety of the public.

8. In the course of any investigation of a licensee, the department may issue a subpoena or subpoena duces tecum to any individual or entity with documents or information related to an investigation. The department may enforce its subpoena by applying to the circuit court of Cole County or the county where the premises, records, or individuals are located.

(C) If the department determines a licensee presents a threat to the health or safety of the licensee's employees or the public, the department may require a licensee to immediately pause any part of its operations related to or causing the threat, including placing an administrative hold on marijuana product.

(D) Applicants and licensees must cooperate in any investigation conducted by the department. Failure to cooperate with a department investigation may be grounds for denial of an application or for administrative action against a licensee.

(3) Commencement Inspections.

(A) Facility licensees must request and pass a commencement inspection before they may do any of the following: begin operations under a new license or certification; occupy or utilize new space for which the licensee has not previously received approval to operate, including vehicles; begin sharing space with another licensee; change the use of spaces; or, in the case of microbusiness wholesale facilities, begin cultivating or manufacturing where that activity was not already approved after inspection.

1. Requests to begin operations under a new license or certification must be submitted when the licensee believes it will, within thirty (30) days, be ready to begin operations at the facility, and the request must include at least the following:

A. Blueprints of the facility showing the intended use of all spaces and how those spaces comply with the physical security requirements applicable to them;

B. All SOPs necessary for the facility licensee to show compliance with regulations applicable to it;

C. Documentation showing completion of all required training in use of the statewide track and trace system; and

D. Documentation showing compliance with all applicable federal, state, and local requirements for the facility.

2. Requests to occupy new space at an operational facility must be submitted prior to beginning construction or renovation, and the request must include at least the following:

A. The proposed blueprints for the facility showing the intended use of all spaces and how those spaces comply with the physical security requirements applicable to them;

B. SOPs and updated SOPs related to the new space;

C. A written explanation of any changes that will occur within the existing space due to the addition of new space and how those changes will comply with applicable regulations; and

D. An attestation that the proposed new space complies with the facility location requirements of this chapter and any location and zoning requirements of the local government.

3. Requests to begin sharing space with another licensee must be submitted prior to making any changes to the existing space or most recently approved plan for a space, and the request must include at least the following:

A. Descriptions, schematics, or blueprints for the facility clearly indicating what spaces will be shared;

B. A written explanation of the operations that will occur in each shared space for each licensee sharing the space and how those operations and any related changes to existing space will comply with applicable regulations;

C. SOPs and updated SOPs related to the shared space;

D. Copies of agreements between the licensees concerning their respective roles and their relationship for management, operation, and maintenance of the shared spaces, including an acknowledgment that all licensees sharing space will be jointly responsible for compliance with the applicable department regulations for the shared spaces; and

E. An attestation that the proposed sharing of space complies with any zoning requirements of the local government.

4. Requests to change the use of spaces must be submitted prior to making any changes to the existing space or most recently approved plan for a space, and the request must include at least the following:

A. Descriptions, schematics, or blueprints for the facility clearly indicating the spaces that will be used differently than the most recently approved use of the space;

B. A written explanation of the proposed changes and how all affected spaces will comply with applicable regulations; and

C. SOPs and updated SOPs related to the new use of space.

5. Requests by microbusiness wholesale licensees to begin cultivation or manufacturing processes not already approved during a prior commencement inspection must be submitted prior to beginning construction or renovation or making any changes to the existing space or most recently approved plan for a space, and the request must include at least the following:

A. Descriptions, schematics, or blueprints for the facility showing the intended use of all spaces and how those spaces comply with the physical security requirements applicable to them;

B. A written explanation of any changes that will occur within the existing space due to the addition of new processes and how those changes will comply with applicable regulations;

C. SOPs and updated SOPs related to the new space or new use of space;

D. Documentation showing all required training in use of the statewide track and trace system; and

E. Documentation showing compliance with all applicable federal, state, and local requirements for the facility.

(B) In any commencement inspection process, if the department determines the licensee who requested the commencement inspection was not prepared to complete the commencement inspection process when it made the request, the department may set aside the request and require the licensee to make a new request once it is ready to proceed.

(C) Licensees who are constructing or renovating in an operational facility are responsible for ensuring the approved spaces are secured while the unapproved spaces are being constructed, which must include at a minimum, ensuring that all access requirements for limited access areas are maintained during construction and that operational spaces are protected from all potential contaminates related to construction.

(D) Licensees may not commence any operations that are subject to a commencement inspection until the department issues written approval to do so.

(E) Licensees shall notify the department that an approved change will be complete at least sixty (60) days prior to expected completion.

(4) Notices of Violation.

(A) If the department determines that a licensee is not in compliance with the department's regulations, the department may issue a warning or an Initial Notice of Violation to the licensee that explains how the licensee has violated the department's regulations and what remedial actions the department expects the licensee to take.

(B) Once a licensee has been issued an Initial Notice of Violation, the licensee shall, within fifteen (15) days, complete the specified remedial actions and notify the department in writing of that completion, or request additional time for remediation if necessary.

(C) If the department conducts a follow up inspection or review of the licensee or its response to the Initial Notice of Violation and determines violations have not been cured or remedial actions have not been taken, the department may issue a Final Notice of Violation to the licensee explaining how the licensee continues to violate the department's regulations, what remedial actions the department expects the licensee to take, and that the license may be suspended if the specified remedial actions are not taken or the violations cured within thirty (30) days.

(D) If the violations have not been cured or specified remedial actions taken within thirty (30) days after a Final Notice of Violation is sent, the department may suspend or fine the licensee, up to an amount equal to the daily gross receipts of the facility per day, until the corrective or remedial actions have been taken by the licensee.

(5) Licensees that receive more than three (3) notices of violation in a twelve (12) month period or that have ever received more than one (1) notice of violation for violating the same regulation may be required by the department to:

(A) Acquire certification or accreditation to a quality management system standard chosen by the department; or

(B) Be subject to an audit of the licensee's processes or practices relevant to the violations by a third party auditor chosen by the department.

AUTHORITY: Sections 1.3.(1)(b), 1.3.(2), 2.4(1)(b), and 2.4(4) of Article XIV, Mo. Const. Emergency rule filed January 20, 2023, effective February 3, 2023, expires August 1, 2023. Original rule filed January 20, 2023.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions three million, seventy-four thousand, two hundred ninety-eight dollars ($3,074,298) for the first three years, and one million, seven thousand, four hundred thirteen dollars ($1,007,413) annually thereafter.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Health and Senior Services, 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.*

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 100—Division of Cannabis Regulation
Chapter 1—Marijuana

PROPOSED RULE

19 CSR 100-1.040 Consumers, Qualifying Patients, and Primary Caregivers

PURPOSE: Under Article XIV, Section 1 of the ***Missouri Constitution****, patients with qualifying medical conditions have the right to discuss freely with their physicians the possible benefits of medical marijuana use and the right to use medical marijuana for treatment under the ethical supervision of a physician or nurse practitioner. Additionally, under Article XIV, Section 2 of the Missouri Constitution, adults at least twenty-one years of age have the right to access marijuana. Pursuant to the same article, the Department of Health and Senior Services is tasked with ensuring patient access to medical marijuana and adult access to marijuana, subject to reasonable restrictions. This rule explains how the department will implement provisions of Article XIV related to Consumers, Qualifying Patients, and Primary Caregivers.*

(1) Consumers. Individuals 21 years of age and older may purchase and possess marijuana product in accordance with the rules set forth herein. Consumers may obtain authority to cultivate as set forth below.

(2) Qualifying Patients. Individuals 18 years of age or older and emancipated individuals under the age of 18 may obtain a medical marijuana patient identification card to purchase and possess medical marijuana product in accordance with the rules set forth herein. Non-emancipated individuals under the age of 18 may obtain a medical marijuana patient identification card with the written consent of a custodial parent or legal guardian. Qualifying patients, with the exception of non-emancipated minors, may also obtain authority to cultivate as set forth below.

(A) Medical marijuana patient identification cards are valid for three (3) years.

(B) Physician or Nurse Practitioner Certification.

1. All qualifying patients must have a physician or nurse practitioner certification confirming the qualifying patient has at least one qualifying medical condition.

2. A physician or nurse practitioner certification is required for all new and renewal patient applications.

3. The physician or nurse practitioner certification must be submitted within a new or renewal patient application, and the signature date on the certification must be less than 30 days old on the application's submission date.

(C) Qualifying Patient Responsibilities.

1. No qualifying patient shall smoke marijuana product for medical use in a public place, unless provided by law.

2. No qualifying patient who is under the care of a primary caregiver may serve as the primary caregiver for another qualifying patient.

3. If a qualifying patient is no longer entitled to medical marijuana product or no longer wishes to hold a medical marijuana identification card, they must notify the department within ten (10) days of that change. The department will confirm in writing that the qualifying patient has voluntarily surrendered the identification card and that the identification card is no longer valid.

(D) Non-emancipated Qualifying Patients. Individuals under the age of 18 may obtain a medical marijuana patient identification card with the written consent of a custodial parent or legal guardian.

1. A physician or nurse practitioner shall not issue a certification for the medical use of marijuana product for a non-emancipated qualifying patient without the written consent of a parent or legal guardian of the qualifying patient.

2. The department shall not issue a qualifying patient identification card on behalf of a non-emancipated qualifying patient without the written consent of a parent or legal guardian of the qualifying patient. Such card shall be issued to the parent or guardian and not directly to the patient.

3. Only a parent or legal guardian may serve as a primary caregiver for a non-emancipated qualifying patient.

4. Only the qualifying patient's parent or legal guardian who holds a primary caregiver identification card shall purchase or possess medical marijuana product for a non-emancipated qualifying patient.

5. A parent or legal guardian who holds a primary caregiver identification card shall supervise the administration of medical marijuana product to a non-emancipated qualifying patient.

(3) Primary Caregivers. Individuals 21 years of age or older may obtain a primary caregiver identification card which allows them to purchase and possess medical marijuana product on behalf of up to six (6) qualifying patients. Primary caregivers may also obtain authority to cultivate as set forth below.

(A) Primary caregiver identification cards are valid for three years.

(B) Individuals seeking primary caregiver status for non-emancipated qualifying patients must be the parent or legal guardian of the qualifying patient.

(C) Primary Caregiver Responsibilities.

1. No individual shall serve as the primary caregiver for more than six (6) qualifying patients.

2. No individual shall serve as a primary caregiver for a qualifying patient who is already served by two (2) primary caregivers.

3. If a primary caregiver is no longer entitled to serve as a primary caregiver or no longer wishes to hold a primary caregiver identification card, they must notify the department within ten (10) days of that change. The department will confirm in writing that the primary caregiver has voluntarily surrendered the identification card and that the identification card is no longer valid.

4. Primary caregivers shall provide ethical, safe, and secure access to medical marijuana product for the associated patient by way of purchase, possession, administration, and cultivation, if applicable.

(4) Purchase and Possession Limitations.

(A) Consumers.

1. Consumers may only purchase up to three (3) ounces of dried, unprocessed marijuana product, or its equivalent, in a single transaction.

2. Consumers may only possess:

A. In the case of consumers who do not cultivate, up to three (3) ounces of dried, unprocessed marijuana product, or its equivalent; or

B. In the case of consumers who are cultivating marijuana, any supply of marijuana cultivated by the consumer in excess of the consumer's three (3) ounce limit must remain in an enclosed, locked facility at a private residence.

(B) Qualifying Patients and Primary Caregivers.

1. Absent a certification from a physician or nurse practitioner authorizing more, qualifying patients may only purchase, or have purchased on their behalf by their primary caregivers, up to six (6) ounces of dried, unprocessed marijuana, or its equivalent, per qualifying patient, in a thirty- (30-) day period.

2. The six (6) ounce purchase limit established in this section shall not apply to a qualifying patient with a certification from a physician or nurse practitioner that there are compelling reasons why the qualifying patient needs a greater amount than the limit established in this section.

A. In such a case, the physician or nurse practitioner must state in their certification what amount the qualifying patient requires, which shall then be that patient's limit.

B. If the patient's amount is increased after they receive a qualifying patient identification card, the patient must submit a request to the department to increase their purchase limit within thirty (30) days of the physician's or nurse practitioner's signature date. The department shall, within thirty (30) days, either approve or deny the request. The increase will not be effective until the department approves the request.

3. Qualifying patients may only possess, or instruct a primary caregiver to possess on their behalf:

A. In the case of qualifying patients who do not cultivate or have medical marijuana cultivated on their behalf, up to a sixty- (60-) day supply of dried, unprocessed marijuana per qualifying patient, or its equivalent; or

B. In the case of qualifying patients who are cultivating marijuana for medical use or whose primary caregivers are cultivating marijuana on their behalf, up to a ninety- (90-) day supply of dried, unprocessed marijuana or its equivalent, so long as the supply of medical marijuana product in excess of a sixty- (60-) day supply remains in an enclosed, locked facility.

4. Primary caregivers may possess a separate legal limit for each qualifying patient under their care and a separate legal limit for themselves if they are a qualifying patient, each of which shall be stored separately for each qualifying patient and labeled with the qualifying patient's name.

5. Possession of between the legal limit and up to twice the legal limit shall subject the possessor to department sanctions, including an administrative penalty of up to two hundred dollars ($200) and loss of the possessor's identification card(s) for up to a year.

(5) Consumer Personal Cultivation, Qualifying Patient Cultivation, and Primary Caregiver Cultivation, Generally.

(A) Except for good cause, any consumer, licensed qualifying patient with the exception of non-emancipated qualifying patients, or licensed primary caregiver on behalf of a qualifying patient may obtain authorization to cultivate up to six (6) flowering marijuana plants, six (6) nonflowering marijuana plants fourteen (14) inches tall or more, and six (6) nonflowering plants under fourteen (14) inches tall at any given time in a single enclosed, locked facility, subject to the limitations below.

(B) Non-emancipated qualifying patients are not eligible for patient cultivation authorization, but a parent or legal guardian who is the primary caregiver may obtain authorization to cultivate on behalf of the non-emancipated qualifying patient.

(C) A qualifying patient may not be authorized for both qualifying patient cultivation and consumer personal cultivation at the same time.

(D) All consumer personal cultivation, qualifying patient, and primary caregiver cultivation shall take place in an enclosed, locked facility, as defined in this chapter.

(E) Nothing in this section shall convey or establish a right to cultivate marijuana in a facility where state law or a private contract would otherwise prohibit doing so.

(F) Consumer personal cultivation, qualifying patient, and primary caregiver cultivation shall not take place at a place of business.

(G) The department shall provide each consumer, qualifying patient, or primary caregiver who receives a cultivation authorization with a cultivation authorization identification card, which shall be clearly displayed within the enclosed cultivation area and in close proximity to the marijuana plants. The authorization shall list the name of the consumer, qualifying patient, or primary caregiver who has been authorized to cultivate, and the address at which that individual is authorized to cultivate marijuana.

(H) Consumer Personal Cultivation.

1. All consumer personal cultivation must take place at a private residence.

2. Up to two (2) consumers, who both hold valid consumer personal cultivation identification cards, may grow marijuana at the same private residence.

3. No more than twelve (12) flowering marijuana plants, twelve (12) nonflowering plants fourteen (14) inches tall or more, and twelve (12) nonflowering plants under fourteen (14) inches tall may be cultivated by consumers at a single private residence, regardless of the number of consumers who live at that private residence.

4. Plants and marijuana produced by the plants in excess of three (3) ounces must be kept at a private residence in an enclosed, locked facility.

5. All cultivated flowering marijuana plants in the possession of a consumer shall be clearly labeled with the consumer's name.

6. A consumer personal cultivation identification card shall be valid for twelve (12) months from its date of issuance and shall be renewable with the submittal of a renewal application.

(I) Qualifying Patient Cultivation.

1. Up to two (2) qualifying patients, who both hold valid qualifying patient cultivation identification cards, may share one (1) enclosed, locked facility.

2. No more than twelve (12) flowering marijuana plants, twelve (12) nonflowering plants fourteen (14) inches tall or more, and twelve (12) nonflowering plants under fourteen (14) inches tall may be cultivated in a single enclosed, locked facility.

3. Under no circumstance will a qualifying patient be entitled to cultivate, or have cultivated on his or her behalf, more than six (6) flowering marijuana plants.

4. Only one (1) individual in a patient-caregiver relationship may be authorized for cultivation on behalf of the qualifying patient.

5. All cultivated flowering marijuana plants in the possession of a qualifying patient shall be clearly labeled with the qualifying patient's name.

6. A patient cultivation identification card shall be valid as long as the qualifying patient's identification card is still valid, up to three (3) years from its date of issuance.

A. The cultivation application fee will be the same for all cultivation applications no matter how much time remains on the validity of the patient's identification card.

B. The cultivation identification card shall be renewable by submitting a renewal patient cultivation application, as long as the individual has an approved renewal patient application.

(J) Primary Caregiver Cultivation.

1. A primary caregiver may cultivate on behalf of more than one (1) qualifying patient and may utilize one (1) or more enclosed, locked facilities.

2. No primary caregiver cultivating marijuana for more than one qualifying patient may exceed a total of twenty-four (24) flowering plants, twenty-four (24) nonflowering plants fourteen (14) inches tall or more, and twenty-four (24) nonflowering plants under fourteen (14) inches tall.

3. Only one (1) individual in a patient-caregiver relationship may be authorized for cultivationon behalf of the qualifying patient.

4. All cultivated flowering marijuana plants in the possession of a primary caregiver shall be clearly labeled with the qualifying patient's name.

5. A primary caregiver cultivator who is also authorized as a qualifying patient cultivator may grow the plants that belong to them as a qualifying patient cultivator, and the plants grown on behalf of their qualifying patient(s) using the same enclosed, locked facility.

6. A primary caregiver cultivator who is also authorized as a consumer personal cultivator may not grow the plants that belong to them as an authorized consumer personal cultivator and the plants grown on behalf of their qualifying patient(s) using the same enclosed, locked facility.

7. A caregiver cultivation identification card shall be valid as long as the primary caregiver's identification card is still valid, up to three (3) years from its date of issuance.

A. The cultivation application fee will be the same for all cultivation applications no matter how much time remains on the validity of the primary caregiver's identification card.

B. The cultivation identification card shall be renewable by submitting a renewal caregiver cultivation application, as long as the individual has an approved renewal caregiver application.

(6) Identification Cards.

(A) Application Requirements.

1. The department will receive applications for qualifying patient, primary caregiver, and cultivation authorization identification cards 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 at http://cannabis.mo.gov.

A. Qualifying patients and primary caregivers shall obtain identification cards from the department, which will include unique, identifying numbers for each patient and each caregiver.

B. A qualifying patient or their primary caregiver(s) who wish to cultivate shall also obtain an identification card to cultivate for the exclusive use of that qualifying patient, which will include unique, identifying numbers for each authorized cultivator.

C. Consumers who wish to cultivate marijuana shall obtain identification cards from the department, which will include unique, identifying numbers for each authorized cultivator.

2. Qualifying Patient Identification Cards. All applications for qualifying patient identification cards and renewal of such identification cards shall include at least the following information:

A. The qualifying patient's name, date of birth, and Social Security number;

B. The qualifying patient's residence address and mailing address or, if the qualifying patient has no residence or mailing address, an address where the qualifying patient can receive mail;

C. The qualifying patient's e-mail address;

D. A statement confirming that:

(I) One (1) physician or nurse practitioner certification, which is less than thirty (30) days old, has been submitted on behalf of the qualifying patient and is available for review within the submitted application; and

(II) If applicable, there are compelling reason(s) why the qualifying patient needs a greater amount than six (6) ounces in a thirty- (30-) day period;

E. A legible copy of the qualifying patient's photo identification card issued by a state or federal government entity;

F. A clear, color photo of the applicant's face taken within the prior three (3) months;

G. If the qualifying patient is an emancipated qualifying patient under the age of eighteen (18), a certified emancipation order from the issuing court;

H. If the qualifying patient is a non-emancipated qualifying patient:

(I) Written consent of a parent or legal guardian who will serve as primary caregiver for the qualifying patient, dated within the previous ninety (90) days; and

(II) An attestation that the individual signing the application is the qualifying patient's parent or legal guardian and—

a. A copy of a birth certificate or adoption record showing proof of relationship as qualifying patient's parent; or

b. A copy of documentation establishing legal guardianship;

I. An attestation that the information provided in the application is true and correct;

J. The signature of the qualifying patient and date the qualifying patient signed, or, in the case of a non-emancipated qualifying patient, the signature of the parent or legal guardian who completed the qualifying patient application and will serve as primary caregiver for the qualifying patient; and

K. All applicable fees.

3. Primary Caregiver Identification Cards. All applications for primary caregiver identification cards and renewal of such identification cards shall include at least the following information:

A. The primary caregiver's name, date of birth, and Social Security number;

B. The primary caregiver's residence address and mailing address;

C. The primary caregiver's e-mail address;

D. The name and Patient License Number of the qualifying patient for whom the applicant seeks to serve as primary caregiver;

E. A legible copy of the primary caregiver's photo identification card issued by a state or federal government entity;

F. A clear, color photo of the applicant's face taken within the prior three (3) months;

G. Except in the case of a non-emancipated qualifying patient, patient authorization signed by the qualifying patient who the primary caregiver will serve and dated within the previous ninety (90) days;

H. If the qualifying patient is a non-emancipated qualifying patient, written consent of the parent or legal guardian who will serve as the qualifying patient's primary caregiver, dated within the previous ninety (90) days, and—

(I) A copy of a birth certificate or adoption record showing the primary caregiver as the qualifying patient's parent; or

(II) A copy of documentation establishing legal guardianship of the primary caregiver over the qualifying patient;

I. An attestation that the information provided in the application is true and correct;

J. The signature of the primary caregiver and date the primary caregiver signed; and

K. All applicable fees.

4. Cultivation Cards. All applications for consumer personal cultivation identification cards, qualifying patient cultivation identification cards, and primary caregiver cultivation identification cards and renewal of such cards shall include at least the following information:

A. The applicant's name, date of birth, and Social Security number;

B. The applicant's residence address and mailing address;

C. A statement that the applicant's cultivation will take place in Missouri.

D. The applicant's email address;

E. A legible copy of the applicant's photo identification card issued by a state or federal government entity;

F. A clear, color photo of the applicant's face taken within the prior three (3) months;

G. The address of the location in which the applicant will cultivate marijuana;

H. For consumer personal cultivation authorization, attestation that the cultivation will be located at a private residence in a single enclosed, locked facility that permits access to only the applicant:

I. For qualifying patient or primary caregiver cultivation authorization, attestation that the cultivation will be located in a single enclosed, locked facility that permits access to only the qualifying patient and his or her licensed caregiver(s), as applicable;

J. If the cultivation will be by or on behalf of a qualifying patient—

(I) the qualifying patient's name and patient license number; and

(II) the primary caregiver's name and license number, if applicable.

K. If a qualifying patient seeks to share an enclosed, locked facility, the name and Patient License Number of up to one (1) other qualifying patient with whom the cultivation space will be shared;

L. If a primary caregiver, requesting authorization to cultivate on behalf of a qualifying patient, seeks to grow plants for multiple patients in a single enclosed, locked facility, the names and patient license numbers of up to five (5) other qualifying patients, plus their own name and qualifying patient license number if the space is going to be used for their own qualifying patient cultivation and cultivation on behalf of their qualifying patient(s);

M. If a consumer seeks to grow marijuana at the same private residence as one (1) other licensed consumer personal cultivator, the name and license numberof one (1) other licensed consumer personal cultivator who will be cultivating at that private residence;

N. A statement affirming the applicant's agreement to immediately make available access to the cultivation space upon request from the department. Such access will be only for purposes of confirming compliance with this rule and will be

limited to the enclosed, locked facility and any areas necessary to reach and enter the facility on a path of the applicant's choosing;

O. An attestation that the information provided in the application is true and correct;

P. The signature of the applicant and date the applicant signed; and

Q. All applicable fees.

(B) Application Processes.

1. The department shall charge a non-refundable fee for marijuana identification card applications.

A. There will be a separate fee for each application to be a qualifying patient, each application to be a primary caregiver on behalf of a specific qualifying patient, and each application to cultivate marijuana.

B. Requests for authority to cultivate medical marijuana on behalf of a qualifying patient may be made following approval of a qualifying patient or primary caregiver identification card.

(I) A cultivation authorization will only remain valid as long as the qualifying patient or primary caregiver's identification card is still valid.

(II) The fee for an application to cultivate on behalf of a qualifying patient will be the same for all applications no matter how much time remains on the validity of the patient or caregiver's identification card at the time of the request for cultivation authorization is submitted.

(III) The cultivation authorization must be renewed at the time the patient or caregiver identification card is renewed.

C. Current fees, including any adjustments, will be posted on the department's website at http://cannabis.mo.gov.

2. An application for an identification card will be considered received when the department receives a complete application. A complete application is an application that includes all information required by this rule. The department will notify an applicant once if an application is incomplete and will specify in that notification what information is missing.

3. Upon receiving a complete application for a qualifying patient identification card, primary caregiver identification card, or qualifying patient cultivation identification card, the department shall, within thirty (30) days, either approve the application or provide a written explanation for its denial.

A. In the case of qualifying patient and patient cultivation identification cards, if the department fails to deny or fails to approve a complete application within thirty (30) days, a card will be issued that will be valid for three (3) years and will serve all the same functions as would a card issued after application approval.

4. If the name or address of a consumer personal cultivator, qualifying patient, or primary caregiver changes after an identification card is issued, the consumer, qualifying patient, or primary caregiver shall notify the department within fourteen (14) calendar days of the change.

5. Denial. Qualifying patient, primary caregiver, and cultivation identification cards may be denied.

A. If an applicant provides false or misleading information in an application, the card for which the applicant is applying will be denied.

B. If an applicant fails to provide a complete application within fourteen (14) calendar days of being notified that an application is incomplete, the card for which the applicant is applying will be denied.

(I) An applicant will be considered notified on the date the department sends a written explanation of how the application is incomplete to an e-mail address provided by the applicant.

C. If the department determines there is good cause to do so, an application for an identification card may be denied.

D. If the applicant fails to pay the requisite application fee(s) associated with an application, the qualifying patient, primary caregiver, or cultivation identification card will be denied.

E. Any denial shall be issued by the department in writing to the consumer, qualifying patient, or primary caregiver, and shall include the specific reasons for the denial and the process for requesting review of the department's decision.

6. Renewal.

A. Qualifying patient identification cards are valid for three (3) years from their date of issuance and shall be renewable by submitting, prior to expiration by at least thirty (30) days but no sooner than sixty (60) days, a new or renewal application, which shall include all required information, including a new physician certification.

B. Primary caregiver identification cards are valid for three (3) years from their date of issuance and shall be renewable by submitting, prior to expiration by at least thirty (30) days but no sooner than sixty (60) days, a new or renewal application, which shall include all required information.

(I) A qualifying patient with a primary caregiver(s) must renew their qualifying patient identification card before the associated primary caregiver renewal application(s) will be processed.

(II) The approved primary caregiver renewal application will only serve to renew the primary caregiver identification card if the associated qualifying patient has an approved renewal patient application.

C. Qualifying patient cultivation and primary caregiver cultivation identification cards are valid as long as the qualifying patient's or primary

caregiver's identification card is still valid, up to three (3) years from its date of issuance.

(I) The cultivation identification card shall be renewable by submitting, prior to expiration by at least thirty (30) days but no sooner than sixty (60) days, a new or renewal patient or caregiver cultivation application.

(II) The renewal cultivation application shall include all required information.

(III) The application will only serve to renew the cultivation identification card if the individual has an approved renewal patient or caregiver application.

D. Consumer cultivation identification cards are valid for one (1) year from their date of issuance and shall be renewable by submitting, prior to expiration by at least thirty (30) days but no sooner than sixty (60) days, a new or renewal application, which shall include all required information.

(C) Administrative Penalties.

1. Qualifying patient, primary caregiver, and cultivation identification cards may be sanctioned.

A. If a card holder violates any provision of this chapter, any identification cards currently held by that individual may be revoked.

B. If, after an identification card has been issued, the Department determines that an applicant has failed to provide a complete application including requisite application fees, or has provided false or misleading information in the application, the Department may revoke the identification card.

C. If a card holder is found to be in possession of an amount of marijuana product between the legal limit applicable to that individual and up to twice the legal limit applicable to that individual, they shall be subject to department sanctions, including an administrative penalty of up to two hundred dollars ($200) and loss of their identification card for up to a year.

D. If a qualifying patient, primary caregiver, or cultivation card holder commits a criminal offense related to distribution of marijuana product, whether or not a criminal charge has been filed, any marijuana identification cards currently held by that individual shall be revoked.

E. If a cultivation identification card holder fails to immediately make available access to his or her cultivation facility upon request from the department, the cultivation identification card shall be revoked.

F. If a consumer cultivator, qualifying patient, or primary caregiver uses combustible gases or other dangerous materials to extract resins from marijuana, the individual's identification card may be subject to department sanctions, including an administrative penalty of one thousand dollars ($1000) and loss of their identification card for up to one (1) year.

2. In any case of identification card revocation, the department may notify the card holder that it will not accept a new application for the same card type for a designated period of time.

3. Any revocation shall be issued by the department in writing to the consumer or qualifying patient or, in the case of a primary caregiver, to the qualifying patient and the primary caregiver, and shall include the specific reasons for the revocation and the process for requesting review of the department's decision.

AUTHORITY: Sections 1.3.(1)(b), 1.3.(2), 2.4(1)(b), and 2.4(4) of Article XIV, Mo. Const. Emergency rule filed January 20, 2023, effective February 3, 2023, expires August 1, 2023. Original rule filed January 20, 2023.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions four million, eight hundred twenty-eight thousand, five hundred forty dollars ($4,828,540) for the first three-year period, and one million, five hundred eighty-seven thousand, nine hundred twenty-two dollars ($1,587,922) annually thereafter.

PRIVATE COST: This proposed rule will cost private entities sixty-four million, four hundred twenty six thousand, three hundred twenty five ($64,426,325) for the first three-year period, and thirty-four million, seven hundred fifty-six thousand, six hundred dollars ($34,756,600) annually thereafter.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Health and Senior Services, 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.*

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 100—Division of Cannabis Regulation
Chapter 1—Marijuana

PROPOSED RULE

19 CSR 100-1.050 Physicians and Nurse Practitioners

*PURPOSE: Under Article XIV, Section 1 of the **Missouri Constitution**, patients with qualifying medical conditions have the right to discuss freely with their physicians and nurse practitioners the possible benefits of medical marijuana use, and physicians and nurse practitioners have the right to provide professional advice concerning the same. This rule explains how the department will implement provisions of Article XIV, Section 1 related to physicians and nurse practitioners.*

(1) Certifying Physician or Nurse Practitioner Qualifications. All physicians or nurse practitioners who intend to certify patients for their patient medical marijuana licenses must be licensed to practice in their respective fields and must be in good standing.

(A) A certifying physician must have a current license to practice medicine or osteopathy. Practice of medicine or osteopathy means practice by persons who hold a physician and surgeon license pursuant to Chapter 334, RSMo, including those who are admitted to practice in Missouri by reciprocity pursuant to §334.043, RSMo.

(B) A nurse practitioner must have a current Missouri or compact RN license and be recognized by the Missouri State Board of Nursing as an advanced practice registered nurse.

(C) A physician is in good standing if:

1. The physician's license is registered with the Missouri Board of Healing Arts as current, active, and not restricted in any way, such as by designation as temporary or limited; and

2. The physician is not currently on the list of individuals from whom the department will not accept certifications.

(D) A nurse practitioner is in good standing if:

1. That individual's license is registered with the Missouri State Board of Nursing as current and active;

2. That individual's license is not restricted in any way, such as by designation as cease and desist, denial of license, expired, restriction, revoked, suspension, voluntary agreement to refrain from practice, or voluntary surrender; and

3. That person is not currently on the list of individuals from whom the department will not accept certifications.

(2) Physician or Nurse Practitioner Certification. Physicians or nurse practitioners will submit certifications electronically through a department-provided, web-based system. In the event of system unavailability, the department will arrange to accept physician or nurse practitioner certifications in an alternative, department-provided format and will notify the public of those arrangements through its website at http://cannabis.mo.gov.

(A) Physician or nurse practitioner certifications must be issued no earlier than thirty (30) days before the date the patient will apply for a patient identification card or renewal of a patient identification card.

(B) Physician or nurse practitioner certifications must include at least the following information:

1. The physician's or nurse practitioner's name, as it appears in the records of the Missouri Division of Professional Registration;

2. The physician's or nurse practitioner's licensee number;

3. Whether the physician or nurse practitioner is licensed to practice medicine or osteopathy, or is licensed as an advanced practiced registered nurse;

4. The physician's or nurse practitioner's business address, telephone number, and email address;

5. The qualifying patient's name, date of birth, and Social Security number;

6. The qualifying patient's qualifying condition;

7. The physician's or nurse practitioner's recommendation for the amount of medical marijuana product the qualifying patient should be allowed to purchase in a thirty- (30-) day period if the recommended amount is more than six (6) ounces of dried, unprocessed marijuana or its equivalent;

A. If the recommended amount is more than six (6) ounces in a thirty- (30-) day period, the physician or nurse practitioner shall provide compelling reason(s) why the qualifying patient needs a greater amount;

8. Statements confirming the following:

A. In the case of a non-emancipated qualifying patient under the age of eighteen (18), before certifying the qualifying patient for use of medical marijuana product, the physician or nurse practitioner received the written consent of a parent or legal guardian who asserts he or she will serve as a primary caregiver for the qualifying patient;

B. The physician or nurse practitioner met with and examined the qualifying patient, reviewed the qualifying patient's medical records or medical history, reviewed the qualifying patient's current medications and

allergies to medications, discussed the qualifying patient's current symptoms, and created a medical record for the qualifying patient regarding the meeting;

C. In the opinion of the physician or nurse practitioner, the qualifying patient suffers from the qualifying condition;

D. The physician or nurse practitioner discussed with the qualifying patient risks associated with medical marijuana, including known contraindications applicable to the patient, risks of medical marijuana use to fetuses, and risks of medical marijuana use to breastfeeding infants; and

9. The signature of the physician or nurse practitioner and date signed.

(3) The department may request to interview any physician or nurse practitioner who chooses to certify individuals as qualifying patients. If such a request is made, the physician or nurse practitioner shall arrange for the interview to occur as soon as possible but no later than thirty (30) days after the department makes the request.

(4) Physician or Nurse Practitioner Investigations. All complaints against physicians or nurse practitioners may be submitted either via forms available on the department's website or by otherwise notifying the department. Complaints shall include the name and address of the physician or nurse practitioner against whom the complaint is made and a clear description of what violation(s) the complainant believes the physician or nurse practitioner has committed.

(A) After receiving a complaint against a physician or nurse practitioner, the department will determine whether an investigation is warranted. Investigations may also be initiated by the department.

(B) If the department conducts an investigation pursuant to a complaint, the physician or nurse practitioner will receive a copy of the complaint. In the event the investigation is initiated by the department, the physician or nurse practitioner will receive a written description of the violation the department believes the physician or nurse practitioner has committed.

(C) The department may conclude an investigation by taking any of the following actions:

1. Dismissing the complaint;

2. Referring the complaint to the Missouri State Board of Registration for the Healing Arts or Missouri State Board of Nursing, as applicable;

3. Referring the complaint to law enforcement; and

4. Refusing to accept any new certifications from the physician or nurse practitioner for a reasonable period of time as determined by the department and adding the physician's or nurse practitioner's name to a publicly available list of physicians or nurse practitioners from whom the department is not accepting certifications. Such action shall only be taken upon concluding the

physician or nurse practitioner has violated a provision of this chapter, Article XIV of the *Missouri Constitution*, or any other rule or law applicable to implementation of Article XIV. The length of time the department shall refuse to accept the physician's or nurse practitioner's certifications shall be based upon the following criteria:

A. Whether the physician or nurse practitioner acted recklessly or knowingly in violating an applicable rule or law;

B. The degree of imminent danger to the health of a qualifying patient the physician's or nurse practitioner's actions caused;

C. The degree or recurrence of falsification of a physician or nurse practitioner certification;

D. Whether the department has previously received substantiated complaints against the physician or nurse practitioner; and

E. Any aggravating circumstances.

(D) Upon completion of an investigation, the department shall notify the physician or nurse practitioner of any department action, the reasons for that action, and the procedure for filing an application for a hearing.

(E) Any physician or nurse practitioner aggrieved by the department's actions taken pursuant to this section may file an application for a hearing with the department. The department shall grant the application within fourteen (14) days after receipt by the department and set the matter for hearing.

(F) The provisions of Chapter 536, RSMo for a contested case, except those provisions or amendments that are in conflict with this section, shall apply to and govern the proceedings contained in this section and the rights and duties of the parties involved. The person requesting a hearing shall be entitled to present evidence, pursuant to the provisions of Chapter 536, RSMo relevant to the allegations.

(G) Upon the record made at the hearing, the director of the department or the director's designee shall determine all questions presented and shall determine whether the initial decision shall stand. The director of the department or the director's designee shall clearly state the reasons for his or her decision.

(H) A person aggrieved by the decision following the hearing shall be informed of his or her right to seek judicial review as provided under Chapter 536, RSMo. If the person fails to appeal the director of the department's findings within thirty (30) days of their issuance, those findings shall constitute a final determination.

(I) A decision by the director of the department shall be inadmissible in any civil or criminal action brought against a physician or nurse practitioner.

AUTHORITY: Sections 1.3.(1)(b), 1.3.(2), 2.4(1)(b), and 2.4(4) of Article XIV, Mo. Const. Emergency rule filed January 20, 2023, effective February 3, 2023, expires August 1, 2023. Original rule filed January 20, 2023.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Health and Senior Services, 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.*

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 100—Division of Cannabis Regulation
Chapter 1—Marijuana

PROPOSED RULE

19 CSR 100-1.060 Facility Applications and Selection

PURPOSE: This rule explains how medical and marijuana facility licensing and certification applications, with the exception of seed-to-sale tracking system entity applications, are submitted and how the Department of Health of Senior Services selects licenses and certificates.

(1) Conversion from a Medical Facility License to a Comprehensive Facility License

(A) A medical facility licensee may request its medical facility license convert to a comprehensive facility license.

1. Conversion requests must be submitted in a department-approved online format.

2. Conversion requests shall include a plan that explains how the applicant will serve both the medical and adult-use markets, while maintaining adequate supply at a reasonable cost to qualifying patients.

3. Conversion requests shall include a plan to promote and encourage participation in the regulated marijuana industry by people from communities that have been disproportionately impacted by marijuana prohibition.

4. Conversion requests shall be accompanied by a nonrefundable fee of two thousand dollars ($2000).

5. A conversion request is deemed received when all required documents and fees are received by the department.

6. The department shall approve or deny conversion requests by email to the licensee's designated contact within sixty (60) days after the conversion request is received. Conversion requests not processed within sixty (60) days of department receipt shall be deemed approved.

7. If the comprehensive facility previously received approval to operate as a medical facility, the comprehensive licensee may begin operating without additional approvals or inspections from the department. If the comprehensive facility did not previously receive approval to operate as a medical facility, the comprehensive licensee may not operate until it requests a commencement inspection and receives approval to operate as a comprehensive facility.

8. A conversion request will be granted unless the medical facility licensee is not in good standing with the department. Good standing means the license is not suspended, revoked, or otherwise inactive at the time the request is made.

(B) Converted comprehensive licenses will retain the same expiration date assigned to the medical license.

(2) Facility Application Process.

(A) The department will publish on its website time periods during which it will accept applications and, when applicable, publish the number of licenses to be selected by lottery. The department may extend an existing application time period by posting a new application deadline on its website.

(B) Applications will be considered complete if the application includes all documents required for applications by this rule.

(C) The department will receive applications for all medical and marijuana 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.

1. The department shall charge each applicant seeking an available medical or marijuana facility license an application fee to be submitted with the application. The department shall publish the current fees, including any adjustments, on its website at http://cannabis.mo.gov.

2. Application fees are nonrefundable, except that a microbusiness facility applicant not chosen by lottery may request a refund of its application fee:

A. Requests for a refund will be accepted beginning thirty-one (31) days after the date of the denial.

B. The application fee will be refunded if the department determines the microbusiness facility applicant met the criteria to apply for a microbusiness facility license and the applicant has no pending or future legal actions related to the denial of the application.

(D) The issuance of a facility license or certification does not authorize the facility licensee to begin activities related to marijuana authorized by the license. A facility licensee will be granted final approval to operate upon passing a commencement inspection.

(E) A facility license or certification shall be valid for three (3) years from its date of issuance.

(3) Application Requirements. Entities must obtain a license or certification to operate a medical or marijuana facility in Missouri. Applications for facility licenses or certifications, except for off-site storage of marijuana product, shall include at least the following information:

(A) Name and address of the designated contact for the applicant entity;

(B) Legal name of the applicant entity, including fictitious business names;

(C) All owners of the applicant entity, with ownership percentage, and a visual representation of the facility's ownership structure;

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

(E) For a microbusiness facility license application, an attestation that the applicant does not have an owner who is also an owner of an existing medical, comprehensive, or another microbusiness marijuana facility license;

(F) For medical and comprehensive facility applicants, a list of all owners who are also owners of a microbusiness facility license and the relevant microbusiness license number(s);

(G) Proposed address of the facility and—

1. An attestation that the proposed facility location complies with the facility location requirements of this chapter;

2. An attestation that the proposed facility location complies with any facility location requirements of the local government; and

3. A copy of, or hyperlink to, all local government requirements for facility location, such as zoning requirements, if applicable;

(H) Blueprints or floor plans for the facility with all rooms clearly labeled, including purpose and square footage;

(I) For facilities that will be cultivating marijuana, the cultivation practices(s) (indoor, outdoor, or greenhouse) used by the facility, and, if using a combination of practices, the ratio of cultivation space limits for each cultivation practice, as provided in the cultivation section of this chapter;

(J) An attestation that all individuals subject to analysis for disqualifying felony offenses will submit fingerprints within two (2) weeks after the application submission for a state and federal fingerprint-based criminal background check to be conducted by the Missouri State Highway Patrol;

(K) An attestation that no individual subject to analysis for a disqualifying felony offense has a disqualifying felony offense;

(L) All applicable fees; and

(M) For each comprehensive facility applicant, the application shall include a plan that explains how the applicant would serve both the medical and adult-use markets, while maintaining adequate supply at a reasonable cost to qualifying patients, and a plan to promote and encourage participation in the regulated marijuana industry by people from communities that have been disproportionately impacted by marijuana prohibition.

(4) In addition to the application requirements in section (3) above, microbusiness facility applicants must also provide documents demonstrating eligibility for microbusiness facility ownership as follows:

(A) A valid, government-issued photo ID; and

(B) For applicants claiming a net worth of less than twenty-five thousand dollars ($250,000) and low income:

1. Sworn financial statements for three (3) of the last ten (10) years, each of which must show net worth of less than twenty-five thousand dollars ($250,000); and

2. A copy of three (3) of the last ten (10) years of tax returns, each of which must show income below two hundred and fifty percent (250%) of the federal poverty level during the applicable year.

(C) For applicants claiming a service-connected disability a copy of the front of the applicant's valid service-connected disability card.

(D) For applicants claiming an arrest, prosecution, or conviction for a non-violent marijuana offense:

1. A copy of the relevant arrest record; or

2. A copy of the relevant FBI background check; or

3. A certified copy of the relevant prosecutor's case file; or

4. A letter from the prosecutor's office indicating the charge filed; or

5. A certified copy of the judgment of conviction; or

6. A certificate of expungement from a court; and

7. If the arrest, prosecution, or conviction was for the applicant's parent, guardian, or spouse:

A. A valid, government-issued photo ID of the parent, guardian, or spouse; and

B. Proof of relationship:

(I) A certified copy of the applicant's birth certificate; or

(II) A certified copy of the judgment of adoption or guardianship; or

(III) A certified copy of the marriage certificate; and

(E) For applicants claiming residency in a ZIP code or census tract area where either thirty percent (30%) or more of the population lives below the federal poverty level or the rate of unemployment is fifty percent (50%) higher than the state average (for qualifying areas in the state, a list of ZIP codes and census tracts will be published on the department's website):

1. Two (2) separate types of utility bills (i.e. one water bill, one electric bill) dated within the last four (4) months, which must include:

A. The name of the applicant;

B. The dates of service;

C. The service address; and

D. The billing address; or

2. A copy of a current residential lease, which must include the name of the applicant, the full address, the date the lease went in to effect and expires, and an affidavit from the applicant stating the applicant resides at that address; or

3. A copy of a residential mortgage which includes the name of the applicant and the full address, and an affidavit from the applicant stating the applicant resides at that address; or

4. A copy of the applicant's real or personal property taxes, dated within the past twelve (12) months, which must include the applicant's name and the date assessed; or

(F) For applicants claiming residency in a ZIP code or census tract area where the historic rate of incarceration for marijuana-related offenses is fifty percent (50%) higher than the rate for the entire state:

1. A certified letter from the local prosecutor's office verifying compliance with this requirement; and

2. Two (2) separate types of utility bills (i.e. one water bill, one electric bill) dated within the last four (4) months, which must include:

A. The name of the applicant;

B. The dates of service;

C. The service address; and

D. The billing address; or

3. A copy of a current residential lease, which must include the name of the applicant, the full address, the date the lease went in to effect and expires, and an affidavit from the applicant stating the applicant resides at that address; or

4. A copy of a residential mortgage which includes the name of the applicant and the full address, and an affidavit from the applicant stating the applicant resides at that address; or

5. A copy of the applicant's real or personal property taxes, dated within the past twelve (12) months, which must include the applicant's name and the date assessed; or

(G) For applicants claiming graduation from a school district that was unaccredited, or had a similar successor designation, at the time of graduation, a certified letter from the Missouri Department of Elementary and Secondary Education indicating that the applicable school district was unaccredited in the year the applicant claims to have graduated from the school, and:

1. A certified copy of the applicant's high school diploma; or

2. A letter from the applicant's school, on school letter head, stating that the applicant graduated from the school; or

(H) For applicants claiming residency in a ZIP code containing an unaccredited school district, or similar successor designation, for three (3) of the past five (5)

years, a certified letter from the Missouri Department of Elementary and Secondary Education indicating that the applicable school district was unaccredited in the year(s) the applicant claims to have lived there, and:

1. A copy of two (2) separate types of utility bills (i.e. one water bill, one electric bill,) for each quarter of the three (3) years that the applicant claims to have lived in said location which must include:

A. The name of the applicant;

B. The dates of service;

C. The service address; and

D. The billing address; or

2. Copies of residential leases for three (3) of the past five (5) years, which must include the name of the applicant, the full address, and the effective date and the expiration date of the lease; or

3. A copy of a residential mortgage which includes the name of the applicant and the address, along with an affidavit that the applicant resided at that address during the applicable years; or

4. A copy of three (3) of the last five (5) years' real or personal property taxes for the applicant, which must include the applicant's name, address, and the date; or

5. An applicant may provide any of the acceptable types documentation for each year they are claiming residency in the ZIP code (i.e., utility bills from one year, lease from a separate year, and property taxes for a third year).

(5) Application Requirements for Off-site Warehouses. Licensees must obtain a separate certification for each warehouse facility used for storing marijuana product at a location other than the approved location of the licensee. Such requests must be submitted after the licensee's facility has passed a commencement inspection and shall include at least the following information:

(A) Blueprints for the offsite storage with all rooms clearly labeled, including purpose and square footage;

(B) An attestation that the proposed location for offsite storage complies with the facility location requirements of this chapter and any facility location requirements of the local government;

(C) If the local government in which the offsite storage will be located has enacted applicable zoning restrictions, the text of the restrictions, including the citation to said restrictions, and a description of how the proposed offsite storage will comply with those restrictions;

(D) An attestation that the offsite storage will comply with all other rules applicable to the facility for which the offsite storage is being established;

(E) An administrative and processing fee of five thousand dollars ($5000).

(6) Application Approval and Denial Process.

(A) In cases where there are more applicants than available licenses or certificates, the department will select applicants for available licenses or certifications by lottery.

1. All timely applications submitted with an application fee during an application time period will be considered eligible for the lottery. Untimely applications or applications without an application fee will be denied.

2. Eligible applications will be assigned an application identifier by the department. The assigned identifiers will be transmitted to the entity conducting the lottery. The individual(s) conducting the lottery will do so without reference to the identities of the applicants.

3. Identifiers will be randomly drawn and listed in the order drawn. If licenses are issued by congressional district, the identifiers will be randomly drawn and listed in the order drawn within each congressional district.

4. After listing all identifiers in the order drawn, the department will review the application corresponding to the selected identifier, beginning with the first identifier drawn, to determine if the applicant is eligible for licensure prior to issuing the license.

5. If during the review period, the department determines an application meets all of the license eligibility requirements in this chapter and Article XIV, the license will be granted.

6. During the application review period, the department may request the applicant to provide additional information or documents needed to determine eligibility for a license by sending the request to the email address of the designated contact associated with the application. If requested, the applicant will have five (5) days to provide the requested information or documents.

7. An application will be denied if:

A. The application is not complete;

B. The applicant, application, or any proposal in the application, is in violation of any rule in this chapter or Article XIV;

C. Awarding a license would result in an entity being an owner in more than ten percent (10%) of the existing licenses within a facility type, rounded down to the nearest whole number;

D. The applicant provides false or misleading information in an application;

E. The applicant fails to timely provide information or records requested by the department; or

F. The department determines an application fails to meet the license eligibility requirements in this chapter and Article XIV.

8. All applicants that are issued a license or certification will be given forty-eight (48) hours to confirm they accept the license or certification. Failure to accept the license or certification in this time frame is cause to deny the application.

9. If an application is denied, the department will review the next application in the order drawn until the available licenses or certifications are filled.

10. Once all available licenses or certifications are filled, the remaining applications in the lottery will be denied.

(B) In cases where fewer applications are received in an application time period than there are available licenses or certifications, all complete applications meeting the license eligibility requirements in this chapter and Article XIV will be granted unless otherwise subject to denial.

(C) Any denial shall be issued by the department in writing to the applicant and shall include the specific reasons for the denial and the process for requesting review of the department's decision.

(7) Renewals. Renewal requests must be submitted in a department-approved online format at least thirty (30) days, but no sooner than ninety (90) days, prior to expiration.

(A) Renewal requests shall be accompanied by a nonrefundable renewal fee to be submitted with the request. The department shall publish the current fees, including any adjustments, on its website at http://cannabis.mo.gov.

(B) A renewal request is deemed received when both the request and renewal fee is received by the department.

(C) Except for good cause, a renewal request will be granted unless the facility licensee is not in good standing with the department. Good standing means the license is not suspended, revoked, or otherwise inactive at the time the request is made.

AUTHORITY: Sections 1.3.(1)(b), 1.3.(2), 2.4(1)(b), and 2.4(4) of Article XIV, Mo. Const. Emergency rule filed January 20, 2023, effective February 3, 2023, expires August 1, 2023. Original rule filed January 20, 2023.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions eighteen million, nine hundred four thousand, eight hundred seventy-three dollars ($18,904,873) for the first three-year period, and six million, two hundred twelve thousand, two hundred eighty-four dollars ($6,212,284) annually thereafter.

PRIVATE COST: This proposed rule will cost private entities eight hundred fifty-six thousand dollars ($856,000) for the first year, and one hundred forty-four thousand dollars ($144,000) for two additional years, combined.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Health and Senior Services, 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.*

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 100—Division of Cannabis Regulation
Chapter 1—Marijuana

PROPOSED RULE

19 CSR 100-1.070 Facility Ownership and Employment

PURPOSE: The Department of Health and Senior Services has the authority to promulgate rules for the enforcement of Article XIV, Sections 1 and 2 of the Missouri Constitution. This rule explains what general provisions are necessary for ownership and employment related to regulated medical and marijuana facilities, with the exception of seed-to-sale tracking system entities.

(1) Facility Ownership.

(A) No medical facility shall be owned, in whole or in part, by an individual with a disqualifying felony offense.

(B) A marijuana facility shall not have as an owner any individual with a disqualifying felony offense.

(C) Facility owners must notify the department of any charges for felony offenses, including the assigned case number, within thirty (30) days of being charged.

(D) No medical or marijuana licensee may be owned by or affiliated with an entity that holds a contract with the state of Missouri for any product or service related to the department's marijuana program.

(E) An entity or individual may not be an owner in more than ten percent (10%) of the total number of comprehensive and medical cultivation, dispensary, or infused products manufacturing facility licenses outstanding, rounded down to the nearest whole number.

(F) No marijuana testing facility shall be owned by an entity or entities under substantially common control, ownership, or management as a cultivation facility, marijuana-infused products manufacturing facility, or dispensary facility.

(G) An owner of a marijuana microbusiness facility may not also be an owner of another licensed marijuana facility or medical facility.

(H) If the ownership of a medical or marijuana facility license is disputed to an extent that negatively impacts the operations of the facility, the department may restrict or suspend the operations of the facility license until the dispute is resolved. If a facility license is restricted or suspended for this reason for longer than one (1) year, the department may revoke the facility license or pursue other remedies consistent with this chapter or Article XIV.

(2) Facility Employment.

(A) Employees, contractors, owners having access to a medical or marijuana facility, and volunteers of a medical or marijuana facility must obtain an agent identification card from the department before beginning employment, work, or volunteer services at a licensed facility. For purposes of this section, a contractor is a person who is contracted to perform work at a licensed facility for more than fourteen (14) days in a year.

(B) All facility agents must be twenty-one (21) years of age or older. Individuals under twenty-one (21) who possess a facility agent identification card prior to the effective date of this rule may remain facility agents.

(C) Agent identification card holders must have their cards visible and on their person at all times while performing work in a facility or on behalf of a licensed or certified entity. Agents must have a government-issued photo ID on their person at all times while the agent identification card is visible.

(D) A licensee may require a criminal background check as a condition of employment.

(E) If authorized or directed by statute, the department may require fingerprint submission to screen agent identification card applications for disqualifying criminal offenses.

(F) Agent identification cards are valid for three (3) years from their date of issuance and shall be renewable by submitting, prior to expiration by at least thirty (30) days but no sooner than sixty (60) days, a new or renewal application.

(G) All facility agents must keep the department apprised of their current contact information and agree to receive department communications by email, including denials and revocations. If the name, address, or email address of an agent changes after an identification card is issued, the agent shall notify the department within fourteen (14) days of the change.

(H) All applications and renewals for agent identification cards shall include at least the following information in a department-approved format:

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

2. A government-issued photo identification that confirms the age of the applicant is over twenty-one (21) years of age;

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

4. All applicable fees.

(I) Upon receiving a complete application or renewal application for an agent identification card, the department shall either approve the application or provide a written explanation for its denial.

1. An application for an agent identification card will be considered received when an application is submitted to the department that includes all information required by this rule.

2. The department shall charge an administration and processing fee of seventy-five dollars ($75) for identification cards, which shall be due at the time of application or renewal.

(J) Denial and revocation. Agent identification cards may be denied or revoked for the following reasons:

1. Submission of an incomplete application;

2. Submission of information in the application or renewal application that is deceptive, misleading, incorrect, false, or fraudulent, or that tends to deceive or create a misleading impression, whether directly, or by omission or ambiguity, including lack of disclosure or insufficient disclosure;

3. Fraudulent use of the agent identification card, including, but not limited to, tampering, falsifying, altering, modifying, duplicating, or allowing another person to use, tamper, falsify, alter, modify, or duplicate an agent identification card;

4. Selling, distributing, transferring in any manner, or giving marijuana product to any unauthorized individual or entity, or an amount of marijuana product not authorized by law;

5.Tampering with or falsifying video recordings or equipment, point of sale systems or records, the state-wide track and trace system or records, or any other facility records, whether at the direction of a licensee or otherwise;

6. Failing to comply with the statewide track and trace system requirements;

7. Violation of any requirement in this chapter;

8. If the individual is prohibited by law from holding an agent identification card;

9. If the agent has committed theft or other criminal offense, whether or not a criminal charge has been filed, in the performance of the functions or duties of the facility agent;

10. Refusal to cooperate with a department investigation; or

11. If an agent card was revoked and the applicant applies for a new identification card, the application shall be denied unless the department finds good cause to issue an agent card.

AUTHORITY: Sections 1.3.(1)(b), 1.3.(2), 2.4(1)(b), and 2.4(4) of Article XIV, Mo. Const. Emergency rule filed January 20, 2023, effective February 3, 2023, expires August 1, 2023. Original rule filed January 20, 2023.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rule will cost private entities nine hundred ninety-seven thousand, five hundred seventy-five dollars ($997,575 for the first three years

and two hundred ninety-three thousand, one hundred dollars (293,100) annually thereafter.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Health and Senior Services, 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.*

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 100—Division of Cannabis Regulation
Chapter 1—Marijuana

PROPOSED RULE

19 CSR 100-1.080 Facility Employee Training

PURPOSE: Under Article XIV, Sections 1 and 2 of the Missouri Constitution, the Department of Health and Senior Services has the authority to regulate and control medical and marijuana facilities. This rule explains what training all medical and marijuana facility licensees are required to provide to employees.

(1) Facility licensees must ensure all facility employees, including contract employees, are trained in at least the following and must maintain records of employee training for at least five (5) years:

(A) The use of security measures and controls that have been adopted by the licensee for the prevention of diversion, inversion, theft, or loss of marijuana product, as applicable to the employee's duties;

(B) Proper use of the statewide track and trace system, as applicable to the employee's duties;

(C) Procedures for responding to an emergency, including severe weather, fire, natural disasters, and unauthorized intrusions;

(D) The safety and sanitation procedures of the facility, as applicable;

(E) Department rules and guidance as applicable to the employee's duties;

(F) All processes and procedures used by the facility that are applicable to that employee's duties;

(G) Transportation and dispensary licensees must ensure employees responsible for assisting customers or handling customer purchase records are trained in standards for maintaining the confidentiality of information related to the use of marijuana product and in procedures for verifying the identity and age of consumers, qualifying patients, and primary caregivers; and

(H) Dispensary licensees must ensure that employees responsible for assisting customers are trained in the following:

1. Procedures for verifying purchase limitations of consumers, qualifying patients, and primary caregivers;

2. The differences in the purported effects and effectiveness of the strains of marijuana available for purchase at their dispensary and the methods of their use; and

3. The expected timeframes for individuals to feel the effects of marijuana product based on their chosen method of use.

(2) All required employee training shall be completed prior to an individual beginning work at a licensed facility or performing activities covered by a new or modified SOP.

(3) Facility licensees must make all training records available for review during inspections.

AUTHORITY: Sections 1.3.(1)(b), 1.3.(2), 2.4(1)(b), and 2.4(4) of Article XIV, Mo. Const. Emergency rule filed January 20, 2023, effective February 3, 2023, expires August 1, 2023. Original rule filed January 20, 2023.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Health and Senior Services, 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.*

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 100—Division of Cannabis Regulation
Chapter 1—Marijuana

PROPOSED RULE

19 CSR 100-1.090 Facility Security

PURPOSE: The Department of Health and Senior Services has the authority to establish security requirements for any premises licensed or certified under Article XIV, Sections 1 and 2 of the Missouri Constitution. This section provides the security requirements of all licensed or certified medical and marijuana facilities.

(1) All medical and marijuana facility licensees shall ensure the security of marijuana product and the facility, including any offsite warehouses, by taking security measures and maintaining security equipment as follows:

(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 of all buildings and the perimeter of the facility; and

(C) Electronic video monitoring, which shall include video cameras with a recording resolution of at least 1920 x 1080p, or the equivalent, capable of recording videos at a rate of at least fifteen (15) frames per second, that operate in such a way as to provide continuous monitoring and allow identification of people and activities in all lighting levels, and that are capable of being accessed remotely at all times by the department or a law enforcement agency in real time;

1. The use of motion detection as a method of continuous monitoring is not permitted.

2. Remote access shall be accomplished through https access or another department-approved format.

3. Video cameras must provide coverage of—

A. All facility building entry and exit points, including windows;

B. All areas of the facility and facility premisis where marijuana is or will be present;

C. Each point-of-sale location;

D. All vaults or safes;

E. Any area where a seed to sale system or the statewide track and trace system are accessed;

F. The entire perimeter of the facility, including at least twenty feet (20') of space around the perimeter of an outdoor grow area; and

G. All marijuana product, from at least two (2) angles, where it is grown, cultivated, manufactured, sampled for testing, tested, stored, weighed, packaged, processed for sale, sold/distributed, rendered unusable, disposed, or loaded for transport.

4. All activities subject to video camera monitoring shall occur only in areas of the facility that are covered by the required video monitoring.

5. Licensees shall ensure that each video camera used pursuant to this section—

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

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

C. Is cabled and does not solely operate via wifi.

6. Video recording equipment must also include at least one (1) call-up monitor that is at least nineteen inches (19").

7. Facilities must have a printer capable of immediately producing a clear, color, still photo from any video camera image.

8. Facility licensees shall store recordings from the video cameras for at least sixty (60) days in a secure location or through a service or network that allows for providing copies of the recordings, in a department approved format, upon request and at the expense of the licensee.

A. The facility licensee shall provide the department with proof of a working storage mechanism upon request of the department and at the expense of the licensee.

B. If the facility licensee changes its recording storage mechanism, the facility licensee must provide the department with notification of such change and proof that the new storage mechanism is capable of storing all recordings for at least sixty (60) days within ten (10) days of said change.

C. Video storage must be encrypted.

9. Facilities shall have a failure notification system that provides an audible and visual notification of any failure in the electronic video monitoring system. and

10. Facilities shall have 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;

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

(G) Security film or shatter-proof glass on glass doors and storefronts;

(H) If windows are in a limited access area, the windows cannot be opened and must be designed to prevent intrusion or the window is otherwise inaccessible from the outside; and

(I) Vaults must be secured in a manner that prevents access to unauthorized individuals through both physical and electronic security measures.

(2) Facility licensees shall establish and follow policies and procedures:

(A) For restricting access to the areas of the facility that contain marijuana product to only facility agents who are employees, contractors, owners having access to a medical or marijuana facility, and volunteers of the facility. Individuals without an agent identification card may be present when necessary for legitimate business purposes, 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 marijuana product;

(C) For identifying facility agents responsible for inventory control activities;

(D) For monitoring the security for the facility;

(E) 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 responding to any alarms; and

(F) For keeping local law enforcement and the department updated on whether the facility employs armed security personnel and how those personnel can be identified on sight.

(3) Medical and marijuana facility licensees with outdoor or greenhouse cultivation spaces or multi-building cultivation or manufacturing facilities, shall construct an exterior barrier around the perimeter of the facility that consists of a fence—

(A) Constructed of nine (9) gauge metal or stronger chain link;

(B) That is at least eight (8) feet in height from the ground to the top of the fence;

(C) Topped with razor wire or similar security wire along the entire length of the fence;

(D) Screened such that an outdoor cultivation area is not easily viewed from outside the fence; and

(E) That includes a secured gate that complies with the same security standards as the fence, as well as a method for controlling access through the gate.

(4) For any planned security outage, the licensee shall notify the department at least twenty-four (24) hours prior to the planned outage and provide a plan for facility and product security during the outage.

(5) Licensees shall notify the department within twenty-four (24) hours after a security system malfunction is discovered and shall make a reasonable effort to repair a malfunction of any security equipment within seventy-two (72) hours after the malfunction is discovered.

(A) A malfunction occurs when any piece of security equipment fails to work as designed or intended, for more than sixty (60) seconds, either through defect, power outage, security breach, internet outage, compromise, or other reason.

(B) If the electronic video monitoring used pursuant to this section malfunctions, the licensee 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 licensee uses other security measures, the licensee must immediately notify the department.

(C) Each licensee 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 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.

(6) Each licensee shall employ a security manager who shall be responsible for—

(A) Conducting a semi-annual audit of all security measures;

1. The semi-annual audit shall be an evaluation of the security of the facility, including warehouses, equipment, procedures, and training, as well as the facility's compliance with this rule.

2. Audits shall take place at least five (5) months apart.

3. Security audit records shall be kept for at least five (5) years.

(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 licensee; 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.

(7) Each licensee 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 fewer than eight (8) hours of training at the facility in providing security services; and

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

AUTHORITY: Sections 1.3.(1)(b), 1.3.(2), 2.4(1)(b), and 2.4(4) of Article XIV, Mo. Const. Emergency rule filed January 20, 2023, effective February 3, 2023, expires August 1, 2023. Original rule filed January 20, 2023.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Health and Senior Services, 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.*

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 100—Division of Cannabis Regulation
Chapter 1—Marijuana

PROPOSED RULE

19 CSR 100-1.100 Facilities Generally

PURPOSE: Under Article XIV, Sections 1 and 2 of the Missouri Constitution, the Department of Health and Senior Services is authorized to regulate and control the operations of Medical and Marijuana Facilities. This rule explains general operating requirements applicable to all licensed and certificated facilities.

(1) Licensing and Location.

(A) An entity must obtain a separate license or certificate for each facility. Subject to department pre-approval, multiple licenses or certificates may be utilized at a single location. Testing facility licensees may not share space with any other facility.

(B) Each license or certification shall be charged an annual fee once the 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 license or certification remains valid, except for in the case of microbusinesses whose first annual fee will be due on the anniversary of their licensure. The department shall publish the current fees, including any adjustments, on its website. The fees will be the amount that is effective as of that license or certification's annual fee due date.

(C) Unless expressly allowed by the local government, no medical or marijuana facility, including any offsite warehouses, shall be sited, at the time of application for license, certification, or local zoning approval, whichever is earlier, within one thousand feet (1,000') of any then-existing elementary or secondary school, daycare, or church. The method of measuring distances is governed by Article XIV.

(D) A medical or marijuana facility may not allow cultivation, manufacturing, sale, or display of marijuana product or marijuana accessories to be visible from a public place outside of the marijuana facility without the use of binoculars, aircraft, or other optical aids.

(2) Marijuana Facility Business Change Applications. Marijuana facility licensees must apply for and obtain the department's approval before they may:

(A) Transfer their license to a different entity with the same ownership. Such a request must include at least the following:

1. Current legal name of the licensee, including fictitious business names, and proposed new legal name of the licensee, including fictitious business names;

2. All owners of the licensed entity and their individual ownership percentage, which must show the proposed new entity is owned by the same owners as is the licensee;

3. A visual representation of the licensee's ownership structure, including all owner entities;

4. Other documentation as requested to verify ownership; and

5. An administrative and processing fee of two thousand dollars ($2000).

(B) Make any changes that would result in an individual becoming an owner of the licensed entity who was not previously an owner. Such requests must include at least the following:

1. All current and proposed owners of the licensed entity and their proposed individual ownership percentage;

2. A visual representation of the licensee's proposed ownership structure, including all owner entities;

3. A chart comparing the previously approved ownership percentages to the proposed ownership percentages;

4. Verification that the change will not result in any substantially common control, ownership, or management between a testing licensee and any other medical or marijuana licensee;

5. An attestation that all individuals subject to analysis for disqualifying felony offenses will submit fingerprints within two (2) weeks after the application submission, or have submitted such fingerprints within the last six (6) months, for a state and federal fingerprint-based criminal background check to be conducted by the Missouri State Highway Patrol;

6. For microbusinesses, if the proposed change affects eligibility, documentation sufficient to demonstrate eligibility for microbusiness facility ownership, as provided in the application and selection section of this chapter;

7. Other documentation as requested to verify ownership; and

8. An administrative and processing fee of five thousand dollars ($5000), which shall only be assessed once on multiple licensed entities with identical ownership making the same changes in ownership.

(C) Make any changes that would result in an overall change in ownership interests of fifty percent (50%) or more from the last approved ownership of the licensee. Such requests may only be submitted after the licensee's facility has received approval to operate and must include at least the following:

1. All current and proposed owners of the licensed entity and their proposed individual ownership percentage;

2. A chart comparing the previously approved ownership percentages to the proposed ownership percentages;

3. A visual representation of the licensee's proposed ownership structure including all owner entities;

4. Verification that the change will not result in any substantially common control, ownership, or management between a testing licensee and any other marijuana licensee;

5. An attestation that all new and proposed owners will submit fingerprints within two (2) weeks after the application submission, or have submitted such fingerprints within the last six (6) months, for a state and federal fingerprint-based criminal background check to be conducted by the Missouri State Highway Patrol;

6. In the case of full asset transfer to a different entity, applications must also include:

A. Asset purchase agreement;

B. Merger, sale, transfer, MOU, or other like agreement between the licensee and transferee;

C. Brand, management, consultant agreements or contracts, or any other agreement or contracts; and

D. Location lease agreement or proof of ownership.

7. For microbusinesses, documentation sufficient to demonstrate eligibility for microbusiness facility ownership, as provided in the application and selection section of this chapter;

8. Other documentation as requested to verify ownership; and

9. An administrative and processing fee of eight thousand dollars ($8,000), which shall only be assessed once on multiple licensed entities with identical ownership making the same changes in ownership.

(D) Change the licensee's facility location. Such requests shall include at least the following:

1. Proposed blueprints for the facility that detail room purpose(s), camera locations, limited access areas, access permissions, and all premises under facility control;

2. Documentation from the local government with jurisdiction over the facility's location confirming that the proposed location complies with local distance requirements, or stating that there are none;

3. If the local government in which the facility will be located has enacted applicable zoning restrictions, documentation from the local government with jurisdiction over the facility's location confirming that the proposed location complies with applicable zoning restrictions;

4. Location lease agreement and/or proof of ownership; and

5. An administrative and processing fee of five thousand dollars ($5000).

(E) Any administrative and processing fee for a microbusiness change application shall be half the amount listed in (A)-(D).

(F) Change applications will be approved if the request contains all of the documents, fees, and information required by this section, and the resulting change in ownership or ownership interests does not violate any provision of this chapter or Article XIV.

(3) Medical Facility Business Change Applications. Medical facility licensees must apply for and obtain the department's approval before they may:

(A) Transfer their license to a different entity with the same ownership. Such a request must include at least the following:

1. Current legal name of the licensee, including fictitious business names, and proposed new legal name of the licensee, including fictitious business names;

2. Any entity that owns any part of the licensed entity and their individual ownership percentage, which must show the proposed new entity is owned by the same entities as is the licensee;

3. A visual representation of the licensee's ownership structure, including all entities that own any part of the licensed entity;

4. Other documentation as requested to verify ownership; and

5. An administrative and processing fee of two thousand dollars ($2000).

(B) Make any changes that would result in an overall change in financial or voting interests of fifty percent (50%) or more from the last approved ownership of the licensee. Such requests may only be submitted after the licensee's facility has received approval to operate and must include at least the following:

1. All current and proposed entities with any financial or voting interest in the licensed entity and their proposed individual ownership percentage;

2. A chart comparing the previously approved ownership percentages to the proposed ownership percentages;

3. A visual representation of the licensee's proposed ownership structure including all entities;

4. Verification that the change will not result in any substantially common control, ownership, or management between a testing licensee and any other medical licensee;

5. An attestation that all individuals subject to analysis for disqualifying felony offenses will submit fingerprints within two (2) weeks after the application submission, or have submitted such fingerprints within the last six (6) months, for a state and federal fingerprint-based criminal background check to be conducted by the Missouri State Highway Patrol;

6. In the case of full asset transfer to a different entity, applications must also include:

A. Asset purchase agreement;

B. Merger, sale, transfer, MOU, or other like agreement between the licensee and transferee;

C. Brand, management, consultant agreements or contracts, or any other agreement or contracts; and

D. Location lease agreement or proof of ownership.

7. Other documentation as requested to verify ownership; and

8. An administrative and processing fee of eight thousand dollars ($8,000), which shall only be assessed once on multiple licensed entities with identical ownership making the same changes in ownership.

(C) Change the licensee's facility location. Such requests shall include at least the following:

1. Proposed blueprints for the facility that detail room purpose(s), camera locations, limited access areas, access permissions, and all premises under facility control;

2. Documentation from the local government with jurisdiction over the facility's location confirming that the proposed location complies with local distance requirements, or stating that there are none;

3. If the local government in which the facility will be located has enacted applicable zoning restrictions, documentation from the local government with jurisdiction over the facility's location confirming that the proposed location complies with applicable zoning restrictions;

4. Location lease agreement and/or proof of ownership; and

5. An administrative and processing fee of five thousand dollars ($5000).

(D) Change applications will be approved if the request contains all of the documents and information required by this section and the resulting change in ownership or ownership interests does not violate any provision of this chapter or Article XIV.

(4) General Operations.

(A) Licenses shall be displayed within twenty feet (20') of the main entrance to a facility at all times.

(B) All licensees must comply at all times with applicable state, local, and federal requirements.

(C) Licensees shall implement a quality management system using a published standard, such as those offered by International Organization for Standardization, ASTM International, Cannabis Safety and Quality, or Foundation of Cannabis Unified Standards, within one (1) year of the date the facility receives department approval to operate. The chosen standard shall be applicable to the licensee's facility type and be implemented with emphasis on regulatory compliance.

(D) All licensees must receive approval to operate within one (1) year of being issued a license or certification; except microbusiness licensees, which must receive approval to operate within two (2) years of issuance. Absent a granted waiver or

variance, licenses may be revoked or sanctioned if not operational and active within the required timeframe.

(E) All marijuana-infused products shall be manufactured in a licensed manufacturing facility. Any facility that extracts resins from marijuana using combustible gases or other dangerous materials, without a manufacturing facility license, shall incur a penalty of ten thousand dollars ($10,000).

(F) All marijuana product sold in Missouri, including plants, flowers, pre-rolls, and infused products, shall have originated from marijuana grown and cultivated in a licensed cultivation facility located in Missouri.

(G) All licensees shall establish and follow SOPs in the event the facility is suspended or ordered to cease operations.

(H) All licensees shall establish and follow detailed SOPs for marijuana product remediation.

(I) All licensees shall establish and follow SOPs to ensure marijuana remains free from contaminants. The systems, equipment, and documentation necessary to follow procedures must address, at a minimum:

1. The flow through a facility of any equipment or supplies that will come in contact with marijuana including receipt and storage;

2. Employee health and sanitation; and

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.

(J) All licensees shall post a sign and outline in policy that consumption of marijuana product is not allowed on the licensed premises, including in any approved transport vehicles.

(K) If a licensee enters into a contract with a management company or other entity to run all or part of the regulated marijuana operations under this chapter, the contract must permit the licensee to access the records of the management company or other entity at request of the department during an investigation or inspection.

(L) All licensees shall maintain any records required by this chapter for at least five (5) years.

(M) The department may issue notice of marijuana product recall to licensees or the public if, in its judgment, any particular marijuana product presents a threat or potential threat to the health and safety of qualifying patients or consumers. All facilities are responsible for complying with recall notices. Recalled items must be immediately pulled from production or inventory and quarantined until such time as the department determines the item is safe, may be remediated, or must be destroyed.

(5) Signage and advertising must comply with the following:

(A) A marijuana product may only be advertised or marketed in compliance with all applicable municipal ordinances, state law, and rules that regulate signs and advertising.

(B) No advertisement of marijuana may contain:

1. Any representation that is false or misleading in any way;

2. Any statement representing that the use of marijuana has curative or therapeutic effects or tending to create an impression that it has curative or therapeutic effects unless such statement has been evaluated and approved by the Food and Drug Administration;

3. Any content that appeals to children, including but not limited to the shape or any part of the shape of a human, animal, or fruit, including realistic, artistic, caracature, or cartoon renderings; or

4. Any statement concerning a brand of marijuana that is inconsistent with any statement on the labeling.

(C) Outdoor signage and, if visible from a public right of way, interior signage, must comply with any local ordinances for signs or advertising.

(6) Facility Licensee Notification and Reporting. Licensees have a duty to keep the department apprised of certain information. Failure of a licensee to report required information to the department may result in administrative penalties, to include a fine of up to $10,000, suspension, or revocation of the license.

(A) Licensees have a continuing duty to provide the department with up-to-date contact information, including the individual who shall be the designated contact for all department communications.

1. Licensees shall notify the department in writing of any changes to the mailing addresses, phone numbers, email addresses, and other contact information they provide the department.

2. Licensees and applicants are deemed to have received all communications and notifications from the department on the date the department sends an email to the email address of the designated contact for the licensee or applicant.

(B) Licensees must report, at least annually:

1. For marijuana facility licensees, all owners, with ownership percentage.

2. For medical facility licensees, all entities that own any part of the licensed entity, with ownership percentage.

(C) The licensee shall notify the department within five (5) days of the initiation and conclusion of any legal proceedings, government investigations, or any other activity that would negatively affect the licensee's ability to operate in accordance with department regulations, including a petition for receivership, loss of lease or location, or disputes relating to the ownership of the facility license.

(D) The licensee shall notify the department when a facility agent has been terminated for misconduct related to handling of marijuana product, including but not limited to, inventory, product integrity, marijuana product sales, theft, health and safety, or facility security.

(E) The licensee shall notify the department within twenty-four (24) hours following the occurrence of an event that affects the health and safety of the facility or its employees, including injury to employees or other persons at the facility resulting in medical care being administered by a medical professional.

(F) The licensee shall notify the department within twenty-four (24) hours of discovery of any theft or attempted theft of marijuana product.

(G) The licensee shall notify the department within twenty-four (24) hours of discovery of any criminal misconduct of an employee, contractor, owner, or volunteer, as it pertains to the operation of the facility.

(H) A cultivation licensee shall notify the department before changing its cultivation practice (indoor, outdoor, or greenhouse) or modifying the ratios of cultivation practices it uses, as provided in the cultivation section of this chapter.

(I) After the department approves a change in location, the licensee shall notify the department it has completed its location change within ninety (90) days of moving the location of the licensed facility.

(J) The licensee shall notify the department of any entity name changes or fictitious name changes.

AUTHORITY: Sections 1.3.(1)(b), 1.3.(2), 2.4(1)(b), and 2.4(4) of Article XIV, Mo. Const. Emergency rule filed January 20, 2023, effective February 3, 2023, expires August 1, 2023. Original rule filed January 20, 2023.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rule will cost private entities between two hundred fifteen million, one hundred fourteen thousand, eight hundred forty dollars ($215,114,840) and eight hundred forty-two million, six hundred sixty thousand, two hundred sixty-four dollars ($842,660,264) in the first year, between nine million, four hundred ninety-eight thousand, six hundred eighty dollars ($9,498,680) and twenty-two million, five hundred eighty-nine thousand, five hundred twenty-eight

dollars ($22,589,528) in years two and three combined, and five million, one hundred thirty-five thousand dollars ($5,135,000) annually thereafter.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Health and Senior Services, 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.*

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 100—Division of Cannabis Regulation
Chapter 1—Marijuana

PROPOSED RULE

19 CSR 100-1.110 Testing

PURPOSE: Under Article XIV, Sections 1 and 2 of the Missouri Constitution, the Department of Health and Senior Services has the authority to regulate and control Marijuana Facilities and to ensure the safe use of marijuana product. This rule explains what regulations apply to the testing of marijuana product.

(1) Marijuana Testing, Generally.

(A) Testing licensees shall test all lots of marijuana product produced by marijuana facilities, including prerolls created at dispensary facilities, before it may be sold for use by a patient or consumer.

(2) Marijuana Testing Facility Certifications.

(A) Any licensee originally certified as a medical marijuana testing facility as of the effective date of this section shall be deemed certified to conduct those activities with respect to all marijuana product.

(B) A testing facility licensee's authority to engage in the process of testing marijuana product includes the acquisition, testing, certification, and transportation of marijuana product.

(3) Testing Facility Requirements. In addition to this chapter's other requirements for licensed facilities and licensees, testing licensees shall also comply with the following:

(A) Testing facility licensees shall be accredited under International Organization for Standardization (ISO) 17025 standards for cannabis testing and any other testing the testing facility performs for marijuana facilities;

1. A marijuana testing licensee must employ a laboratory director with a degree in a natural science, such as biology, chemistry, physics, engineering, or environmental sciences, and at least five years of experience in a regulated laboratory environment or a degree in another applicable field with at least 10 years of experience in a regulated laboratory environment.

2. Analysts processing marijuana samples, or overseeing the processing of marijuana samples, must have at least a bachelor's degree in a natural science, such as biology, chemistry, physics, engineering, or environmental sciences.

(B) Testing facility licensees shall become fully accredited to the standard set forth by ISO 17025 by an International Testing Licensee Accreditation Cooperation recognized accreditation body. Licensees shall achieve such accreditation within one (1) year of the date the licensee receives department approval to operate and shall maintain its accreditation as long the facility holds a certification;

1. The scope of the accreditation shall include all marijuana product testing performed at the facility.

2. Loss of accreditation shall be reported to the department by the testing facility within twenty-four (24) hours of the testing facility receiving notice of the loss.

3. Inspection and audit reports from the accrediting body shall be submitted to the department by the testing facility within twenty-four (24) hours of receipt.

A. During any periods of time when a licensee no longer complies with ISO 17025, the licensee shall not conduct testing of marijuana product, until approved by the department in writing, and may be subject to a fine of up to one thousand dollars ($1000) for every day the facility is not in compliance. Upon return to compliance, the licensee shall not resume testing without department approval.

B. If a licensee loses ISO 17025 accreditation, the licensee shall not conduct testing of marijuana product and may be subject to a fine of up to one thousand dollars ($1000) for every day the licensee is not in compliance.

4. If a licensee does not receive ISO 17025 accreditation within one (1) year of the date the licensee receives department approval to operate, the licensee shall not conduct testing of marijuana product and may be subject to a fine of up to one thousand dollars ($1000) for every day the licensee is not in compliance.

(C) Testing facility licensees shall participate in a proficiency testing program provided by an organization that operates in conformance with the requirements of ISO/IEC 17043 once every six (6) months after the licensee has received approval to operate;

1. The scope of proficiency testing shall include all marijuana testing methods performed at the facility for all marijuana product types tested.

2. The licensee shall notify the department of the proficiency testing provider the facility chooses at least two (2) months prior to engaging with the provider in proficiency testing.

3. The licensee shall analyze proficiency test samples using the same procedures and equipment as used for testing marijuana product.

4. The licensee shall submit copies of proficiency test results to the department within twenty-four (24) hours of receipt.

5. The licensee shall take, and report to the department, corrective action on all failed proficiency tests, and failed tests must be repeated until the licensee obtains an acceptable result. If the licensee fails a proficiency test more than once, the licensee shall:

A. Suspend mandatory testing of the failed analyte(s) until an acceptable result is received; and

B. Investigate and report the cause of failure to the department.

(D) Testing licensees shall retain all remaining sample material that was not used in the testing process for a minimum of sixty (60) days after testing is complete;

1. Excess sample material shall be securely stored in a manner that prohibits sample degradation, contamination, and tampering, and the sample material must be made available to the department upon request.

2. When no longer subject to retention, sample material shall be disposed pursuant to waste disposal requirements of this chapter.

(E) Testing facility licensees shall participate in inter-lab comparison efforts as follows:

1. Licensees must provide marijuana product from remaining sample material up to twice a year, at the direction of the department, to other licensed facilities for testing;

2. Facilities must receive remaining sample material up to ten (10) times a year, at the direction of the department, from other licensed facilities for testing; and

3. The licensee receiving the marijuana product for testing will perform the sampling of the marijuana product, at the direction of the department.

(F) Testing licensees shall maintain all sampling and testing records for five (5) years.

(4) Testing Methods.

(A) Testing licensees must use published, peer-reviewed testing methods that have been validated for cannabis testing, except those for the cannabinoid profile, and—

1. Report to the department what method will be used prior to using that method;

2. Submit lab method verification to the department prior to offering the applicable testing to other licensed facilities;

A. Verifications must be submitted with an acceptable and graded external proficiency test by a third party, where all analytes are shown to have passed.

B. Verification protocols shall include all marijuana matrices tested, such as flower, infused products, and/or concentrates. If the initial verification was not performed on a marijuana matrix, a verification shall be performed for each matrix to be tested.

C. Verification protocols for microbiological methods shall include inoculation of marijuana matrices with live organisms where feasible to ensure that both extraction and detection for the assay are assessed. To further assess the accuracy of the assay, probability of detection analyses, inclusivity, exclusivity, lot-to-lot stability, and robustness studies must be included.

D. A verification of analytical chemistry methods must, at a minimum, verify accuracy, precision, analytical sensitivity, analytical selectivity, limit of detection, limit of quantitation, and reportable range.

E. A verification involving microbiological methods must, at a minimum, address accuracy, precision inclusivity/exclusivity, limit of detection, and reportable range.

3. All test methods should be based on compendia or published methods. In absence of reference to compendia or published methods, Association of Official Analytical Collaboration (AOAC) International Official Methods, AOAC Performance Tested Methods, AOAC Cannabis Standard Method Performance Requirements (SMPR), AOAC Appendix K, AOAC Appendix J, or other reputable sources may be referenced; and

4. All test methods must produce data in a format that meets scientific and regulatory standards.

(B) For cannabinoid profile, testing licensees must follow the AOAC International methods 2017.001, 2017.002, and 2017.019 and also submit lab method verification results to the department prior to offering cannabinoid profile testing to other licensed facilities.

(C) Testing licensees may acquire from cultivation, manufacturing, and dispensary facilities raw material, such as plant material, concentrates, extracts, and infused products, for testing method development.

(5) Sampling Requirements for Mandatory Testing.

(A) Sampling and testing of marijuana product for mandatory testing shall be done by the testing facility licensee at the harvest lot or process lot level. All samples must be collected, stored, and transported in a way that prevents contamination and degradation.

(B) Sampling and testing of each harvest lot or process lot shall be conducted with representative samples such that there is assurance that all harvest or process lots are adequately assessed for contaminants and that the cannabinoid profile is consistent throughout.

1. In the case of dry, unprocessed marijuana, the maximum amount of marijuana from which a sample may be selected is fifteen pounds (15 lbs.), and a minimum of five tenths of a percent (0.5%) of a harvest lot will be sampled for testing.

2. In the case of concentrates, extracts, vape cartridges, prerolls, and infused prerolls, the amount of material required for sampling is—

Process Lot Weight		Sample Required (1±0.2 g)
Pounds	**Kilograms**	
0-0.50	0-0.23	4
0.51-1.5	0.24-0.68	8
1.51-3.00	0.69-1.36	12
3.01-6.00	1.37-2.72	16
6.01-10.00	2.73-4.58	20
10+	4.58+	32

3. In the case of all other infused products, the amount of material required for sampling is—

Units for Sale	Representative Sample Units Required
2-15	2
16-50	3
51-150	5
151-500	8
501-3,200	13
3,201 – 35,000+	20

4. Where marijuana will be sold in a method of administration, the marijuana product must be sampled after it has been processed into its method of administration. All other marijuana products may be sampled in bulk after all processing of the harvest lot or process lot is complete.

(C) A testing facility licensee shall not do any of the following:

1. Desiccate samples;

2. Pre-test samples;

3. Select the best or most desirable material from a lot or sample for testing; or

4. Manipulate samples in any way that would alter the sample integrity or homogeneity of the sample. All sample increments must have the same chances of being selected; sampling must be random.

(6) Mandatory Sample Ordering and Chain of Custody.

(A) Testing licensees shall collect samples of a marijuana product from other licensees for mandatory testing, and no licensee may interfere with, assist with, or otherwise participate in the physical collection of a representative sample by a testing licensee.

(B) At the time of sampling for mandatory testing, the cultivation, manufacturing, or dispensary licensee must make the entire harvest or process lot available to the testing licensee for sample collection.

(C) An employee of the cultivation, manufacturing, or dispensary licensee shall be physically present to observe the sampling process and to ensure representative samples are taken from throughout the lot.

(D) Sampling of the lot shall take place in a designated sample area within the cultivation, manufacturing, or dispensary licensee's facility.

(E) Cultivation, manufacturing, and dispensary licensees will collaborate with testing licensees to record at least the following chain of custody information:

1. The sending facility's license number;

2. The legal name, address, and contact information of the licensee sending the marijuana product for testing;

3. The testing facility's license number;

4. The legal name, address, and contact information of the testing licensee;

5. For each lot to be sampled:

A. The marijuana product category;

B. The marijuana product tag number;

C. Total mass or volume of the harvest or process lot;

D. For infused products, the number of units for sale in the marijuana process lot;

E. The marijuana product sample tag number;

F. Total mass or volume of the marijuana harvest or process lot sample;

G. For infused products, the number of units sampled of the marijuana process lot;

H. Identification of the test or tests requested;

I. Whether the test or tests requested are for mandatory testing or for voluntary testing;

J. Whether a lot is being re-sampled because of a failed mandatory test;

K. Whether the marijuana product was remediated; and

L. The date, name, and signature of both the requesting facility's representative who was present for sampling and the testing facility's representative who conducted the sampling.

(F) Chain of custody records must be retained by both the requesting licensee and the testing licensee for five (5) years.

(G) For mandatory testing, it is the responsibility of the cultivation, manufacturing, or dispensary licensee to—

1. Order the tests necessary to comply with all applicable rules;

2. Ensure processing of the lot is complete prior to sampling;

3. Ensure the lot size from which a sample is taken meets the requirements of this chapter;

4. Only order a mandatory test for marijuana product produced by the licensee;

5. Not order more than one mandatory test for the same marijuana product lot without written approval from the department;

6. Ensure the marijuana product is not on administrative hold and not awaiting approval for retesting; and

7. Ensure remediation of the marijuana product was approved by the department.

(H) Violation of sampling requirements or manipulation of samples may result in fines up to one hundred thousand dollars ($100,000) and suspension or revocation of license.

(I) If a licensee is permitted under this rule to transfer a lot that has failed testing, the licensee must notify the licensee to whom the lot is sold or transferred of the failed test.

(J) Once a marijuana product has passed mandatory testing, the marijuana product shall not be repackaged into a new lot in the statewide track and trace system.

(K) Once marijuana product has passed mandatory testing, a copy of the certificate of analysis for mandatory testing shall be provided to all licensees receiving the lot. Copies of the certificate of analysis may be provided electronically.

(7) Mandatory Testing Requirements.

(A) Testing licensees must perform mandatory testing using sampling, testing methods, and equipment that are appropriate for the tests performed and also permitted within the scoped of the licensee's accreditation under ISO 17025.

(B) Within seven (7) days of collecting a sample, the testing facility shall file a report in the statewide track and trace system detailing, at a minimum:

1. All test results showing whether the lot passed or failed each required test;

2. The certificate of analysis provided to the licensee or third party; and

3. A photo of the sample received at the facility.

(C) Reporting of test results in the statewide track and trace system must coincide with or precede any notice of test results to the originating facility.

(D) Harvest and process lots that have passed mandatory testing may not be retested for purposes of replacing mandatory testing results without written approval from the Department.

(E) Testing of the cannabinoid profile of the final marijuana product shall include those analytes listed below and shall be reported on a dry weight basis. The acceptable limits for each analyte will be a percentage deviation from the mean, using at least three (3) samples, in concentration throughout the lot of fifteen percent (15%) or less:

1. Delta-9 tetrahydrocannabinol (THC), CAS number 1972-08-3;

2. Tetrahydrocannabinol acid (THCA), CAS number 23978-85-0;
3. Cannabidiol (CBD), CAS number 13956-29-1;
4. Cannabidiolic acid (CBDA), CAS number 1244-58-2; and
5. Cannabinol (CBN), CAS number 521-35-7.

(F) The testing licensee shall ensure that any samples for mandatory testing of marijuana flower or marijuana trim, prerolls and infused prerolls, are homogenized in accordance with the following requirements:

1. The marijuana testing facility shall first remove any sample increments required to conduct testing for microbials and water activity; and

2. The marijuana testing facility shall then homogenize, by grinding or other suitable method, enough of the remaining sample material to run all remaining analyses required plus any extra that may be needed for retesting. If the finished product lot includes such things as stems, seeds, wrap, or leaves, those items must also be included in sample homogenization. Samples must be homogenized to attain an average particle size of less than 1 millimeter.

A. A crutch or filter, if present, shall be removed for cannabinoid profile screening.

B. In the preparation of samples intended for potency analysis, the laboratory may not adulterate or attempt to manipulate the potency of the sample.

(G) Testing for contaminants in the final marijuana product shall include, but shall not be limited to:

1. Microbial screening. A test will fail if it shows—

A. A total mycotoxin concentration, including aflatoxins and ochratoxin A, of greater than twenty (20) micrograms per kilogram;

B. Pathogenic E. coli or salmonella concentrations detectable in one (1) gram; and

C. Pathogenic Aspergillus species A. fumigatus, A. flavus, A. niger, or A. terreus detectable in one (1) gram;

2. Chemical residue screening. A test will fail if it shows—

Banned Analytes	**Chemical Abstract Services (CAS) Registry number**	**Action Limit (ppm)**
Abamectin	71751-41-2	> 0.5
Acephate	30560-19-1	> 0.4
Acequinocyl	57960-19-7	> 2
Acetamiprid	135410-20-7	> 0.2
Aldicarb	116-06-3	> 0.4
Azoxystrobin	131860-33-8	> 0.2
Bifenazate	149877-41-8	> 0.2

Bifenthrin	82657-04-3	> 0.2
Boscalid	188425-85-6	> 0.4
Carbaryl	63-25-2	> 0.2
Carbofuran	1563-66-2	> 0.2
Chlorantraniliprole	500008-45-7	> 0.2
Chlorfenapyr	122453-73-0	> 1
Chlormequat Chloride	7003-89-6	> 0.2
Chlorpyrifos	2921-88-2	> 0.2
Clofentezine	74115-24-5	> 0.2
Cyfluthrin	68359-37-5	> 1
Cypermethrin	52315-07-8	> 1
Daminozide	1596-84-5	> 1
DDVP (Dichlorvos)	62-73-7	> 1
Diazinon	333-41-5	> 0.2
Dimethoate	60-51-5	> 0.2
Ethoprophos	13194-48-4	> 0.2
Etofenprox	80844-07-1	> 0.4
Etoxazole	153233-91-1	> 0.2
Fenoxycarb	72490-01-8	> 0.2
Fenpyroximate	134098-61-6	> 0.4
Fipronil	120068-37-3	> 0.4
Flonicamid	158062-67-0	> 1
Fludioxonil	131341-86-1	> 0.4
Hexythiazox	78587-05-0	> 1
Imazalil	35554-44-0	> 0.2
Imidacloprid	138261-41-3	> 0.4
Kresoxim-methyl	143390-89-0	> 0.4
Malathion	121-75-5	> 0.2
Metalaxyl	57837-19-1	> 0.2
Methiocarb	2032-65-7	> 0.2
Methomyl	16752-77-5	> 0.4
Methyl parathion	298-00-0	> 0.2
MGK-264	113-48-4	> 0.2
Myclobutanil	88671-89-0	> 0.2
Naled	300-76-5	> 0.5
Oxamyl	23135-22-0	> 1
Paclobutrazol	76738-62-0	> 0.4
Permethrins*	52645-53-1	> 0.2
Prallethrin	23031-36-9	> 0.2

Phosmet	732-11-6	> 0.2
Piperonyl_butoxide	51-03-6	> 2
Propiconazole	60207-90-1	> 0.4
Propoxur	114-26-1	> 0.2
Pyridaben	96489-71-3	> 0.2
Pyrethrins+	8003-34-7	> 1
Spinosad	168316-95-8	> 0.2
Spiromesifen	283594-90-1	> 0.2
Spirotetramat	203313-25-1	> 0.2
Spiroxamine	118134-30-8	> 0.4
Tebuconazole	80443-41-0	> 0.4
Thiacloprid	111988-49-9	> 0.2
Thiamethoxam	153719-23-4	> 0.2
Trifloxystrobin	141517-21-7	> 0.2
Vitamin E acetate	58-95-7	> 0.2

3. Heavy metal screening. A test will fail if it shows—

Metal	**Failure Level for Marijuana (Meant for Inhalation) (ppm)**	**Failure Level for Marijuana-Infused Products (ppm)**
Total Arsenic	> 0.2	> 1.5
Cadmium	> 0.2	> 0.5
Total Chromium	> 0.6	> 2.0
Lead	> 0.5	> 0.5
Mercury	> 0.1	> 3.0

4. Residual solvents. A test will fail if it shows—

Solvent	**Chemical Abstract Services (CAS) Registry number**	**Failure Level for Marijuana (Inhalation) (ppm)**	**Failure Level for Marijuana-Infused Products (ppm)**
1,2-Dichloroethane	107-06-2	> 2	> 5
Acetone	67-64-1	> 750	> 5000
Acetonitrile	75-05-8	> 60	> 410
Benzene	71-43-2	> 1	> 2
Butanes (all isomers)	106-97-8	> 800	> 5000

Chloroform	67-66-3	> 2	> 60
Ethanol	64-17-5	> 1000	> 5000
Ethyl acetate	141-78-6	> 400	> 5000
Ethyl ether	60-29-7	> 500	> 5000
Ethylene Oxide	75-21-8	> 5	> 50
Heptane	142-82-5	> 500	> 5000
Hexanes (all isomers)	11054-3	> 50	> 290
Isopropyl alcohol	67-63-0	> 500	> 5000
Methanol	67-56-1	> 250	> 3000
Methylene chloride	75-09-2	> 125	> 600
Pentanes (all isomers)	109-66-0	> 750	> 5000
Propane	74-98-6	> 2100	> 5000
Toluene	79-01-6	> 150	> 890
Trichloroethylene	108-88-3	> 25	> 80
Total Xylenes (ortho-, meta-, para-)	1330-20-7	> 150	> 2170

5. Water activity and moisture content screening. A test will fail if it shows—

A. For dry, unprocessed marijuana, prerolls, infused prerolls, and manually extracted concentrates that are not oil, such as hash and kief, water activity that exceeds 0.65 a w and moisture content below 5.0% or above 15.0%; and

B. For all solid infused products, water activity that exceeds 0.85 a w.

6. Foreign matter screening. Testing shall be performed on the total representative sample prior to sample homogenization. A test will fail if it shows—

A. More than 5.0% of stems 3 mm or more in diameter; or

B. More than 2.0% of other foreign matter (powdery mildew, mold, mites, hair, dirt, etc.).

(8) Voluntary Testing.

(A) Upon request from a licensed cultivation, manufacturing, or dispensary facility, testing licensees may also test material that was not collected by the testing facility according to the rules for mandatory test sampling, but results from such voluntary tests will not satisfy mandatory testing requirements.

(B) Voluntary testing may be completed on a schedule agreeable to the submitting facility, but all test results from voluntary testing must be reported in the statewide track and trace system.

(C) Reporting of test results in the statewide track and trace system must coincide with or precede any notice of test results to the originating facility.

(9) Testing Failures.

(A) The Department will place a hold on marijuana product that fails mandatory testing through the statewide track and trace system.

(B) All product that fails mandatory testing must be reanalyzed, remediated, or destroyed within three (3) months of initial test failure. Product that fails mandatory testing may be reanalyzed, remediated, or destroyed as follows:

1. Before taking action with any product that fails mandatory testing, licensees must, within fifteen (15) days of test failure, notify the department of their intent to proceed in one of the following ways:

A. Reanalysis of previously tested sample;

B. Remediation of the harvest or process lot through remediation actions specifically allowed by rule;

C. Destruction of the harvest or process lot; or

D. Submission of a request to perform remediation not specifically allowed by rule.

2. After notifying the department, licensees may:

A. Reanalyze the original sample collected for testing;

(I) Reanalysis must be performed by a testing facility that did not perform the initial analysis.

(II) If the sample passes reanalysis, a testing facility that did not perform the initial analysis or reanalysis may sample the lot and perform testing on that new sample in compliance with all rules for mandatory testing.

B. Complete marijuana product remediation through a remediation process specifically allowed by this rule. After a product has been remediated, a testing facility that did not perform the initial analysis shall resample the lot and perform testing on that new sample in compliance with all rules for mandatory testing;

C. Destroy the product; or

D. Submit a request to remediate the product through a method not specifically approved by this rule. Such requests must be approved by the department, in writing, prior to the licensee taking any remediation actions.

(C) Heavy Metal Failures. Marijuana product that fails mandatory or voluntary testing for heavy metals shall be placed on hold through the statewide track and trace system pending disposal or, if approved by the Department, reanalysis. Product that fails testing for heavy metals may not be remediated.

(10) Approved Remediation Processes. Marijuana product that fails testing, except for heavy metal failure, may be remediated. After notifying the department of intent to remediate, licensees may conduct the following remediation processes without additional approval:

(A) Failed microbial screening may be remediated through solvent-based extraction or processing, such as hydrocarbon, ethanol, or carbon dioxide.

(B) Failed residual solvent testing may be remediated by returning the product to a purging process within the facility.

(C) Failed water activity testing may be remediated by:

1. Solvent-based extraction or processing; or

2. Additional drying or curing.

(D) Failed chemical residue screening may be remediated through solvent-based extraction or processing, such as hydrocarbon, ethanol or CO2.

(E) A lot that fails reanalysis may not be reanalyzed again but may be remediated one time.

(F) A lot that fails remediation may not be remediated again but may be reanalyzed one time.

(11) A medical or marijuana facility may be required by the department to submit samples of marijuana product for testing at any time and without notice.

(A) The department may have the marijuana product tested at a marijuana testing facility, the Missouri State Public Health Laboratory, or any other lab authorized to conduct the required tests.

1. If the department requests that a marijuana testing facility test the marijuana product, the facility may not charge the department any more than it would ordinarily charge any other entity for whom it performs the same or similar tests.

(B) Samples collected will be tested by the department to determine whether the marijuana product is safe for human consumption and is accurately labeled or to verify the result of marijuana testing conducted by a marijuana testing laboratory.

(C) Samples may be collected either through random process to determine accuracy of testing results or when the department has reasonable grounds to believe—

1. Marijuana product is contaminated or mislabeled;

2. A licensee is in violation of any rule, statute, or Article XIV; or

3. The results of a test would further an investigation by the department.

(12) Testing licensees may test marijuana product and hemp product received from third parties.

(A) Samples from third parties must be delivered by the third parties to the testing facility.

(B) Prior to engaging in these services, testing licensees must submit standard operating procedures related to these services to the department for review, which must include:

1. Tagging and tracking;

2. Chain of custody; and

3. Testing methods if different from the testing methods established for testing of marijuana product for medical and marijuana facilities.

AUTHORITY: Sections 1.3.(1)(b), 1.3.(2), 2.4(1)(b), and 2.4(4) of Article XIV, Mo. Const. Emergency rule filed January 20, 2023, effective February 3, 2023, expires August 1, 2023. Original rule filed January 20, 2023.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars ($500)in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Health and Senior Services, 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.*

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 100—Division of Cannabis Regulation
Chapter 1—Marijuana

PROPOSED RULE

19 CSR100-1.120 Packaging, Labeling, and Product Design

PURPOSE: Under Article XIV, Sections 1 and 2 of the Missouri Constitution, the Department of Health and Senior Services is authorized to promulgate rules necessary to ensure the safe use of marijuana product, including rules related to labeling and packaging standards. This rule explains what packaging, labeling, and product design regulations apply to all medical and marijuana facility licensees.

(1) All marijuana product shall be produced, packaged, and labeled in a manner that protects public health and does not appeal to children.

(A) No marijuana product may be manufactured, packaged, or labeled in a false or misleading manner, such as by inaccurately representing product ingredients.

(B) Product and Packaging Design.

1. No marijuana product or packaging may be designed using the shape or any part of the shape of a human, animal, or fruit, including realistic, artistic, caricature, or cartoon renderings.

2. No marijuana product or packaging may be designed in such a way as to cause confusion between a marijuana product and any product not containing marijuana, such as where products or packaging are visually similar to any commercially similar product that does not contain marijuana.

3. All marijuana product packaging shall be resealable, opaque, and certified as child resistant. Where marijuana product is packaged in a series of containers, the container closest to the product, excluding methods of administration or wrappers, must be compliant with this requirement.

4. All marijuana product packaging shall be constructed from FDA-approved food contact substances. Where marijuana product is packaged in a series of containers, the container closest to the product, including methods of administration or wrappers, must be compliant with this requirement.

5. All marijuana product packaging, including exit packaging, may only utilize—

A. a single color;

B. a product name;

C. text indicating whether the product is sativa, indica, or a hybrid; and

D. up to two (2) logos or symbols of a different color or colors, whether images or text, including brand logos, provided the logos or symbols are no larger than two (2) inches in length and two inches in height.

(C) Labeling.

1. The front of all containers, wrappers, packages, and methods of administration, except the paper for prerolls, that contain marijuana product shall be clearly and conspicuously labeled with "Marijuana" printed at least as large as any other words used on the containers, methods of administration, wrappers, and packages, as well as a prominently displayed universal symbol indicating the product contains marijuana that consists of the following:

A. A diamond containing the letters "THC"; and

B. The number of milligrams of THC in the package.

2. The marijuana product container closest to the product shall bear a label displaying only the following information, in the following order, from top to bottom and left to right:

A. All active and other ingredients, which shall not include groupings of ingredients that obscure the actual ingredients, such as "natural flavors" or "botannically derived terpenes";

B. Servings or doses per package;

C. A "best if used by" date;

D. The license number of the licensed entity from which the final marijuana product originated;

E. The license number(s) of the licensee that packaged the product, if different from the licensed entity from which the final marijuana product originated;

F. The testing lab where the marijuana product passed required testing;

G. The statewide track and trace system tag number associated with the final testing results for the product;

H. The exact total weight of the marijuana included in the package;

(I) For dried, unprocessed marijuana, concentrates, prerolls, and infused prerolls, weight shall be listed in grams.

(II) For infused products other than infused prerolls, weight shall be listed by milligrams of delta 9 tetrahydrocannabinol.

I. The exact delta 9 tetrahydrocannabinol, tetrahydrocannabinol acid, cannabidiol, cannabidiol acid, cannabinol, tetrahydrocannabivarin, cannabidivarin, and delta 8 tetrahydrocannabinol per serving/dose, listed in milligrams;

J. The following warning: "Keep out of reach of children"; and

K. Marijuana product packaging may include health warnings including side effects and behavioral effects of usage of any particular product.

3. Marijuana product packaging may not contain any information other than that specifically required by this subsection.

(2) Prior to use, all marijuana product designs and packaging designs must be submitted to the department for review of compliance with sections (1)(B) and (C) of this rule and, once approved, will receive an approval number that must be displayed on the marijuana product packaging.
(3) All marijuana product shall be compliantly packaged and labeled by the cultivation, manufacturing, or microbusiness wholesale facility providing the final marijuana product for sale except where cultivation or microbusiness wholesale facilities are providing dried, unprocessed marijuana to dispensaries for use in creating prerolls or for dispensing directly to consumers or qualifying patients in custom amounts. In such a case, the dispensary facility is responsible for ensuring the product is compliantly packaged and labeled prior to sale.
(4) Any violation of this subsection shall be punishable by an appropriate and proportional department sanction, up to and including an administrative penalty of five thousand ($5000) dollars for each product/packaging category, identified by approval number, in which a requirement is violated.

AUTHORITY: Sections 1.3.(1)(b), 1.3.(2), 2.4(1)(b), and 2.4(4) of Article XIV, Mo. Const. Emergency rule filed January 20, 2023, effective February 3, 2023, expires August 1, 2023. Original rule filed January 20, 2023.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions three million, one hundred eight thousand, three hundred twenty-four dollars ($3,108,324) for the first three-year period, and one million, nineteen thousand, fourteen dollars ($1,019,014) annually thereafter.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars ($500) in the time the emergency is effective.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Health and Senior Services, 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.*

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 100—Division of Cannabis Regulation
Chapter 1—Marijuana

PROPOSED RULE

19 CSR 100-1.130 Inventory Control and Seed-to-Sale Tracking

PURPOSE: Under Article XIV, Sections 1 and 2 of the Missouri Constitution, the Department of Health and Senior Services has the authority to regulate and control Medical and Marijuana licensees. This rule explains what regulations apply to medical and marijuana facility inventory control systems and procedures as well as to certification and operations of seed-to-sale tracking systems.

(1) Inventory control systems and procedures. All facility licensees shall implement inventory control systems and procedures as follows:

(A) Each licensee shall designate, in writing, a facility agent who is generally responsible for the inventory control systems and procedures for that facility;

(B) Licensees shall maintain all records required by this section for at least five (5) years;

(C) All weighing and measuring of marijuana product required by this rule must be conducted with a National Type Evaluation Program (NTEP) approved scale that complies with Accuracy Class I & II parameters, which shall be recalibrated by a certified entity at least yearly;

1. Facility agents shall inspect and log the inspection of each scale prior to use and verify the scale is clean and reading accurately.

2. Each licensee shall maintain a scale inspection log indicating the date, method of accuracy verification, and by whom the accuracy is verified.

3. The licensee's NTEP scale shall be designed for the type of weighing or measuring needed for the licensee's facility type.

(D) Each facility licensee shall use the statewide track and trace system as its system of record to track marijuana product from seed or immature plant stage until the marijuana product is either purchased by a consumer, qualifying patient, or primary caregiver; expended during testing; or destroyed;

(E) All marijuana product in a medical or marijuana facility must be traceable in the statewide track and trace system at all times;

1. All immature plants at least eight (8) inches tall or eight (8) inches wide shall be tagged with traceability information.

2. All packaged marijuana product shall bear a tag with traceability information.

3. Licensees shall place a new package tag on marijuana product any time—

A. A marijuana product changes product category; or

B. The marijuana product is incorporated into a different marijuana product.

(F) Licensees must enter into the statewide track and trace system each day's beginning inventory, harvests, acquisitions, sales, disbursements, remediations, disposals, transfers, deliveries, ending inventory, and any other data necessary to complete the inventory control records in the statewide track and trace system. Records will not be considered complete unless all available fields for a particular action are completed, including the identity of the facility agent making the record;

(G) Discrepancies in marijuana product inventory records shall not be corrected by entering an inventory adjustment without first being documented, investigated by management personnel, and reported to the department within twenty-four (24) hours of discovering the discrepancy;

(H) If a licensee identifies a reduction in the amount of marijuana product in the inventory of the facility due to suspected criminal activity by a facility agent, the licensee 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;

(I) Cultivation facility licensees must—

1. Report in the statewide track and trace system all seeds and all plants of any size;

2. Report in the statewide track and trace system, by plant or location—

A. All pesticides, herbicides, fertilizers, and other agricultural chemicals applied to marijuana plants and growing medium during production and processing at its facility; and

B. All ingredients contained in each pesticide, herbicide, fertilizer, and other agricultural chemical applied to the marijuana plants and growing medium during production and processing at its facility; and

3. Provide to the department a monthly physical inventory report that includes all adjustments and adjustment reasons. The physical inventory shall be reconciled with the inventory recorded in the statewide track and trace system.

(J) Manufacturing facility licensees shall—

1. Establish and maintain a perpetual inventory system that documents the flow of all non-marijuana materials through the manufacturing process;

2. Establish procedures to reconcile the raw marijuana material with the finished product on the basis of each process lot;

3. Record in the statewide track and trace system all active and inactive ingredients in each final manufactured product;

4. Record in the statewide track and trace system the serving or, in the case of medical marijuana product, dosage amounts for each final manufactured product; and

5. Provide to the department a monthly physical inventory report that includes all adjustments and adjustment reasons. The physical inventory shall be reconciled with the inventory recorded in the statewide track and trace system.

(K) Dispensary licensees shall be responsible for ensuring that every amount of marijuana product sold or disbursed to a consumer, qualifying patient, or primary caregiver is immediately recorded in the statewide track and trace system. Amounts of marijuana product shall be recorded—

1. For dried, unprocessed marijuana and prerolls, in grams;

2. For concentrates and infused prerolls, in grams; or

3. For infused products, by milligrams of THC;

(L) All facility licensees must ensure the accuracy of information entered into the statewide track and trace system on a daily basis;

1. Errors identified within the system must be immediately corrected. All corrections should be accompanied with a detailed note in the system clearly outlining the error that occurred and the corrective action taken.

2. Errors involving consumer and patient allotments must be reported to the department and corrected in the statewide track and trace system within twenty-four (24) hours of being identified.

(M) In order to facilitate the use of the statewide track and trace system, facilities may also employ a department-certified seed-to-sale tracking system that integrates with the statewide track and trace system; and

(N) In case of seed-to-sale system failure or loss of connection between the seed-to-sale system and the statewide track and trace system, a licensee must cease performing all actions that are required to be tracked.

1. Upon system restoration, the licensee must confirm all inventory and tracking information is accurately reflected in the statewide track and trace system.

2. Any such system failure or loss of connection must be reported to the department within three (3) hours of identifying the seed-to-sale system failure or loss of connection between the seed-to-sale system and the statewide track and trace system.

(2) Seed-to-Sale Tracking.

(A) Access to Seed-to-Sale Tracking System Certifications.

1. Any entity certified to conduct seed-to-sale tracking for medical marijuana product as of the effective date of this section shall be deemed certified to conduct those activities with respect to all marijuana product.

2. The department will accept applications for seed-to-sale tracking system certifications via the online application system.

3. Incomplete applications for certification of seed-to-sale tracking systems may be denied.

4. The department shall charge an application fee for a seed-to-sale certification and also an annual fee once a certification is granted.

A. The first annual fee will be due thirty (30) days after a certification is issued and shall be due annually on that same date as long as the certification remains valid.

B. The department shall publish the current fees, including any adjustments, on its website at http://cannabis.mo.gov. The fees due will be the fee that is effective as of the due date for the fee.

(B) Application Requirements. All applications for seed-to-sale tracking system certifications shall include at least the following information:

1. Name and address of the applicant;

2. Legal name of the entity, including any fictitious business names;

3. An attestation by an owner or principle of the entity that the seed-to-sale tracking system can and will comply with this rule; and

4. All applicable fees or proof that all applicable fees have already been paid.

(C) Seed-to-Sale Tracking System Requirements. All seed-to-sale tracking systems used by licensees shall be capable of—

1. Interfacing with the statewide track and trace system such that a licensee's employees may enter and access information in the statewide track and trace system as required for inventory control and tracking and for purchase limitations set forth in this chapter;

2. Providing the department with access to all information stored in the system's database;

3. Maintaining the confidentiality of all patient and consumer data and records accessed or stored by the system such that all persons or entities other than the department may only access the information in the system that they are authorized by law to access; and

4. Producing analytical reports to the department regarding—

A. Total quantity of daily, monthly, and yearly sales at the facility per product type;

B. Average prices of daily, monthly, and yearly sales at the facility per product type;

C. Total inventory or sales record adjustments at the facility; and

D. API error report showing how many times the seed-to-sale tracking system failed to upload information to the statewide track and trace system, or failed in some other way.

(D) Seed-to-Sale Tracking System Prohibitions.

1. No certified seed-to-sale tracking system entities may begin operations before signing the department's Marijuana Application Programming Interface User Agreement.

2. No seed-to-sale tracking system entity may be owned by or affiliated with an entity that holds a contract with the state of Missouri for any product or service related to the department's marijuana program.

(E) Tracking-related discipline.

1. The department may impose a fine of up to $5,000, and may restrict, suspend, or revoke a seed-to-sale tracking system entity certification for the following reasons:

A. Failure of a seed-to-sale tracking system entity to comply with this rule;

B. Failure to abide by the department's Marijuana Application Programming Interface User Agreement;

C. Failure of a seed-to-sale tracking system entity to timely interface with the statewide track and trace system;

D. Persistent failure to interface with the statewide track and trace system; or

E. Providing false or misleading information to the statewide track and trace system.

2. If a facility licensee or its employees or contractors fail to comply with the statewide track and trace system requirements or intentionally misuses or falsifies statewide track and trace system tracking data, the department may impose a fine of up to fifty thousand dollars ($50,000), and may restrict, suspend, or revoke the facility's license.

AUTHORITY: Sections 1.3.(1)(b), 1.3.(2), 2.4(1)(b), and 2.4(4) of Article XIV, Mo. Const. Emergency rule filed January 20, 2023, effective February 3, 2023, expires August 1, 2023. Original rule filed January 20, 2023.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions one million, seven hundred thirty-nine thousand, nine hundred ninety-six dollars ($1,739,996) for the first and second year.

PRIVATE COST: This proposed rule will cost private entities between seven hundred twenty-five thousand dollars ($725,000) and one million, five hundred ninety-five thousand dollars ($1,595,000) in the first year, and one hundred forty-five thousand dollars ($145,000) annually thereafter.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Health and Senior Services, 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.*

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 100—Division of Cannabis Regulation
Chapter 1—Marijuana

PROPOSED RULE

19 CSR 100-1.140 Transportation and Storage

PURPOSE: Under Article XIV, Sections 1 and 2 of the Missouri Constitution, the Department of Health and Senior Services has the authority to regulate and control the storage of, warehouses for, and transportation of marijuana product. This rule explains what regulations apply to all medical and marijuana facility licensees that transport and store marijuana product.

(1) Any medical or marijuana facility licensee transporting or storing marijuana product shall comply with the provisions of this section.
(2) Transfer of Marijuana Product, Generally.
(A) A medical or marijuana facility licensee shall be allowed to transfer marijuana product between facilities, in compliance with the requirements and prohibitions provided in this chapter.
(B) Marijuana product may only be transferred as follows:
1. From a medical facility to another medical facility or testing facility;
2. From a comprehensive facility to another comprehensive facility, medical facility, or testing facility;
3. From a microbusiness facility to another microbusiness facility or testing facility; and
4. Marijuana facility licensees not specifically identified above may transfer marijuana product with Department approval, in compliance with the requirements and prohibitions of this chapter.
(C) Testing facility certificate holders may only transport marijuana product that they intend to test.
(D) The agent transferring marijuana product must—
1. Ensure accuracy of the transportation manifest; and
2. Ensure a secure handoff.
(3) Delivery of Marijuana Product, Generally.
(A) A dispensary facility licensee or a transportation certificate holder shall be allowed to deliver marijuana product to consumers, qualifying patients, and primary caregivers in compliance with the requirements and prohibitions provided in this chapter.
(B) Marijuana product may only be delivered as follows:

1. From a medical marijuana dispensary facility to a qualifying patient or primary caregiver; or

2. From a comprehensive marijuana dispensary facility or microbusiness dispensary facility to a consumer, qualifying patient, or primary caregiver.

(C) Delivery to a consumer, qualifying patient, or primary caregiver may be completed at any address as directed by the consumer, qualifying patient, or primary caregiver, as long as the address is a location allowing for the legal possession of marijuana product.

(D) At the time of delivery, licensees must—

1. Require production of a qualifying patient or primary caregiver identification card if applicable;

2. Require production of a valid government-issued photo ID confirming the identity of the qualifying patient, primary caregiver, or consumer and that a consumer is at least twenty-one (21) years of age;

3. In the case of marijuana plant purchases, require production of a cultivation identification card; and

4. Record the delivery of product in the statewide track and trace system.

(4) Security Requirements Related to Transportation, except transfers between facility licensees operating on the same premises.

(A) Licensees authorized by the department to transport marijuana product shall transport all marijuana product from an originating facility to an authorized destination within thirty-six (36) hours of taking possession of the marijuana product.

(B) When extenuating circumstances necessitate holding marijuana product longer than thirty-six (36) hours, the licensee transporting the marijuana product shall notify the department of the circumstances and the location of the marijuana product prior to the end of the thirty-six (36) hour transportation deadline.

(C) All transportation must be completed using motor vehicles that are not marked in any way that indicates marijuana product is being transported by that vehicle and that are equipped with at least—

1. A secure lockbox or locking cargo area made of smooth, hard surfaces that are easily cleaned for storing marijuana product during transit;

2. A secure lockbox or lockboxes for storing payments and video monitoring recording equipment during transit;

3. Video monitoring of the driver and passenger compartment and of any space where marijuana product is stored or can be accessed during transit; and

4. GPS tracking.

(D) Facility agents transporting marijuana product shall—

1. Prior to transporting marijuana product, complete and print an inventory manifest for the trip generated from the statewide track and trace system, which shall be provided by the facility from which the marijuana product is transported.

2. During transport—

A. Have facility agent identification card(s) accessible at all times;

B. Have a valid driver's license accessible at all times;

C. Keep a copy of the applicable inventory manifest and trip plan in the transportation vehicle, which shall be within reach of the driver for the duration of the trip; and

D. Have accessible at all times a cell phone or other means to readily communicate with individuals or entities outside the transport vehicle, including law enforcement and the department;

3. The facility agent transporting the marijuana product shall report any vehicle accidents in which the transport vehicle is involved within one (1) hour to law enforcement and the licensed or certificated entity for whom the agent is transporting; and

4. After transport, revise the trip plan to reflect the actual route taken and the end date and time of transportation, and deliver the revised trip plan to a person designated by the transporting entity for this purpose;

(E) Any vehicle accident, vehicle malfunction, incident of theft, attempted theft, or loss of marijuana product shall be reported to the department within two (2) hours of becoming aware of the incident, in accordance with Department guidance.

(F) All trip plans and revised trip plans shall be maintained by the facility transporting the marijuana product for at least five (5) years.

(G) Video and GPS Monitoring in Transportation Vehicles.

1. Electronic video monitoring for transportation of marijuana product must include 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 operates in such a way as to allow identification of people and activities in the monitored space, in all lighting levels, that are that are installed in manner that will prevent the video camera from being readily obstructed, tampered with, or disabled.

2. Video cameras must provide coverage of the driver and passenger compartment of the vehicle, and any space where marijuana product is stored or can be accessed during transit, including any doors that lead to where the marijuana product is stored.

3. Licensees must store all recordings from the video cameras and GPS data for at least 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 that allows for providing copies of the recordings to the department upon request, in the requested format, at the expense of the licensee.

(5) Security Requirements Related to Transfers Between Facility Licensees Operating on the Same Premises.

(A) Facility agents transferring marijuana product between facility licensees operating on the same premises shall—

1. Prior to transferring marijuana product, complete and print an inventory manifest generated from the statewide track and trace system, which shall be provided by the facility from which the marijuana product is transferred.

2. During transfer—

A. Have facility agent identification card(s) accessible at all times; and

B. Have a copy of the applicable inventory manifest and trip plan accessible for the duration of the transfer.

(B) Any incident of theft, attempted theft, or loss of marijuana product during transfer shall be reported to the department within two (2) hours of becoming aware of the incident, in accordance with department guidance.

(6) Warehouse Storage, Generally.

(A) A medical or marijuana facility licensee shall be allowed to store marijuana product in compliance with the requirements and prohibitions provided in this chapter.

(B) Transportation facility certificate holders may only store marijuana product for purposes related to the transportation of marijuana product.

(C) Facility licensees shall store all marijuana product—

1. At designated location(s) within the facility where the licensee is approved to operate; or

2. In off-site warehouses that have been approved by the department in writing, pursuant to this chapter.

(D) Facility licensees that utilize one or more off-site warehouses to store marijuana product must apply for and be granted a separate certificate to operate each warehousing premises.

1. Application requirements are included in the facility applications section of this chapter.

2. Approved warehouse certificates shall be associated with an existing facility license.

3. Transportation certificate holders will not be granted a warehouse certificate.

4. Transfers between a licensed facility and its off-site warehouse must comply with the transportation security requirements provided in this rule.

5. Transfers may not be made between a licensed facility and a different licensee’s off-site warehouse.

6. Offsite warehouses for dispensary licensees must be located within the congressional district in which the underlying facility license was awarded.

AUTHORITY: Sections 1.3.(1)(b), 1.3.(2), 2.4(1)(b), and 2.4(4) of Article XIV, Mo. Const. Emergency rule filed January 20, 2023, effective February 3, 2023, expires August 1, 2023. Original rule filed January 20, 2023.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Health and Senior Services, 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.*

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 100—Division of Cannabis Regulation
Chapter 1—Marijuana

PROPOSED RULE

19 CSR 100-1.150 Marijuana Waste Disposal

PURPOSE: Under Article XIV, Sections 1 and 2 of the Missouri Constitution, the Department of Health and Senior Services is authorized to regulate and control the operations of Medical and Marijuana Facilities. This rule explains how licensed and certified facilities should dispose of any excess or unusable marijuana waste, unwanted marijuana product, or any waste from the facility.

(1) Unused marijuana or marijuana product and any solid and liquid wastes generated during marijuana product production and processing must be stored, managed, and disposed of in accordance with applicable state, tribal, local, and municipal laws and regulations. Licensees must keep records of the final disposition of all such wastes for at least five (5) years or longer if required by federal, state, local law.
(2) Each licensee shall maintain a marijuana waste disposal log indicating the date and time, location, method of destruction, mixing medium, and agent ID(s) of the employee(s) who destroyed the product.
(3) Wastewater generated during marijuana product production and processing must be disposed of in compliance with applicable state, tribal, local, and municipal laws and regulations.
(4) Marijuana waste 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.
(5) Wastes from the production and processing of 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 licensee to properly evaluate their waste to determine if it is a hazardous waste per 40 CFR 262.11.
(A) All solid waste, as defined by 40 CFR 261.2, must be evaluated under the hazardous waste regulations, including:
1. Waste from marijuana flowers, trim, and solid plant material used to create an extract;
2. Waste solvents, pesticides, and other similar materials used in the cultivation, infused product manufacturing, or testing process;
3. Discarded plant waste, spent solvents, and laboratory wastes from any marijuana processing or quality assurance testing; and

4. Marijuana extract that fails to meet quality testing.

(B) 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.

(C) If a licensee's waste qualifies as a hazardous waste, then that waste is subject to the applicable hazardous waste management standards.

(D) Marijuana product waste that does not qualify as hazardous waste per 40 CFR 262.11 including plant waste, such as, stalks, leaves, and stems, must be rendered unusable prior to leaving a facility.

1. Marijuana product waste that does not qualify as hazardous may be rendered unusable by grinding and incorporating the marijuana product waste with other nonhazardous ground materials so the resulting mixture is at least fifty percent (50%) nonmarijuana waste by volume. Material used to grind with the marijuana may be either compostable waste or noncompostable waste. Other methods to render marijuana waste unusable must be approved by the department in writing before implementation.

2. Marijuana product waste that has been rendered unusable may be delivered to a permitted solid waste facility for final disposition. Other final disposition locations must be approved in writing by the department before implementation.

AUTHORITY: Sections 1.3.(1)(b), 1.3.(2), 2.4(1)(b), and 2.4(4) of Article XIV, Mo. Const. Emergency rule filed January 20, 2023, effective February 3, 2023, expires August 1, 2023. Original rule filed January 20, 2023.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Health and Senior Services, 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.*

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 100—Division of Cannabis Regulation
Chapter 1—Marijuana

PROPOSED RULE

19 CSR 100-1.160 Cultivation Facilities

*PURPOSE: Under Article XIV, Sections 1 and 2 of the **Missouri Constitution**, the Department of Health and Senior Services has the authority to regulate and control Medical and Marijuana Facilities and Licensees. This rule explains what regulations apply to facilities licensed to cultivate marijuana.*

(1) Facility Cultivation, Generally.

(A) A cultivation facility licensee's authority to engage in the process of cultivating marijuana includes the ability to—

1. Acquire marijuana, marijuana seeds, and clones from another cultivation facility;

2. Acquire marijuana seeds from entities not licensed under this chapter if doing so does not violate state or federal law;

3. Acquire marijuana product from a manufacturing facility or dispensary facility;

4. Cultivate marijuana;

5. Process, package, and store (on- or off-site) marijuana product;

6. Transfer marijuana product to or from its own warehouse storage facility, another cultivation facility, manufacturing facility, or dispensary facility;

7. Transfer marijuana product to a testing facility; and

8. Sell marijuana product to another cultivation facility, manufacturing facility, dispensary facility, or testing facility.

(B) A cultivation facility licensee's authority to process marijuana shall include the production and sale of prerolls, but shall not include the manufacture of marijuana-infused products.

(2) Cultivation Facility and Licensee Requirements. In addition to this chapter's requirements for licensed facilities and licensees, cultivation facilities and licensees shall also comply with the following:

(A) Cultivation licensees may cultivate marijuana in indoor, outdoor, or greenhouse facilities or in any combination of these cultivation practices.

1. Each microbusiness wholesale facility utilizing any combination of indoor, outdoor, or greenhouse facilities will be limited to no more than two hundred fifty (250) flowering marijuana plants.

2. Each indoor medical or comprehensive facility utilizing artificial lighting will be limited to no more than thirty thousand (30,000) square feet of flowering plant canopy space.

3. Each outdoor medical or comprehensive facility utilizing natural lighting will be limited to no more than two thousand, eight hundred (2,800) flowering plants.

4. Each medical or comprehensive greenhouse facility using a combination of natural and artificial lighting will be limited to, at the election of the licensee, either no more than two thousand, eight hundred (2,800) flowering plants or no more than thirty thousand (30,000) square feet of flowering plant canopy space.

5. A medical or comprehensive facility that combines indoor, outdoor, and/or greenhouse cultivation space will be limited to a ratio of the limits described above for each applicable cultivation practice, not to exceed 100% of total allowable flowering plant or flowering plant canopy space.

6. If multiple cultivation licenses are operating in the same facility, the capacity limitations of the cultivation facility will be multiplied by the number of licenses;

(B) Cultivation licensees must mitigate odors from all odor sources by—

1. Developing, implementing, and maintaining an odor control plan, which shall address odor mitigation practices such as system design and operational processes;

2. Engaging a professional engineer or certified industrial hygienist to review the odor control plan and certify that the plan is sufficient to effectively mitigate odors from all odor sources prior to commencing operations; and

3. Maintaining compliance with local ordinances related to odor;

(C) Marijuana product shall not be transferred to a dispensary facility, unless it is a seed or clone, until the marijuana has been tested by a testing facility, according to the provisions of this chapter, and the cultivation licensee has received verification from the testing facility that the marijuana product passed all required testing.

AUTHORITY: Sections 1.3.(1)(b), 1.3.(2), 2.4(1)(b), and 2.4(4) of Article XIV, Mo. Const. Emergency rule filed January 20, 2023, effective February 3, 2023, expires August 1, 2023. Original rule filed January 20, 2023.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Health and Senior Services, 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.*

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 100—Division of Cannabis Regulation
Chapter 1—Marijuana

PROPOSED RULE

19 CSR 100-1.170 Manufacturing Facilities

*PURPOSE: Under Article XIV, Sections 1 and 2 of the **Missouri Constitution**, the Department of Health and Senior Services has the authority to regulate and control Medical and Marijuana Facilities. This rule explains what regulations apply to facilities that manufacture marijuana product.*

(1) Manufacturing Facilities, Generally.

(A) A manufacturing facility licensee's authority to engage in the process of manufacturing marijuana-infused products includes the ability to—

1. Acquire marijuana from a cultivation facility;
2. Acquire marijuana product from another manufacturing facility to further process;
3. Acquire marijuana product from a dispensary facility;
4. Process and store (on- or off-site) marijuana product;
5. Manufacture and package marijuana-infused products and prerolls;
6. Transfer marijuana product to or from its own warehouse storage facility, another manufacturing facility, cultivation facility, or dispensary facility;
7. Transfer marijuana product to a testing facility; and
8. Sell marijuana product to another manufacturing facility, cultivation facility, dispensary facility, or testing facility.

(B) A manufacturing licensee's authority to manufacture marijuana-infused products shall include the creation of prerolls and infused prerolls.

(2) Manufacturing Licensee Requirements. In addition to this chapter's requirements for licensed facilities and licensees, manufacturing licensees shall also comply with the following:

(A) Manufacturing licensees must mitigate odors from all odor sources by—

1. Developing, implementing, and maintaining an odor control plan, which shall address odor mitigation practices such as system design and operational processes;
2. Engaging a professional engineer or certified industrial hygienist to review the odor control plan and certify that the plan is sufficient to effectively mitigate odors from all odor sources prior to commencing operations; and
3. Maintaining compliance with local ordinances related to odor;

(B) Marijuana-infused products shall not be transferred to a dispensary facility until the marijuana-infused product has been tested by a testing facility, according to the provisions of this chapter, and the manufacturing licensee has received verification from the testing facility that the marijuana-infused product passed all required testing;

(C) Manufacturing licensees that produce ingestible marijuana-infused products shall comply with the applicable food safety standards set forth in 19 CSR 20 and any relevant statutes controlling food safety standards. Such licensees are prohibited from producing frozen desserts or acidified foods, as defined by 19 CSR 20;

(D) Manufacturing licensees that use volatile solvents shall install air-handling systems and other controls designed to minimize the risks of explosions and fires. These controls should include systems to prevent ignition; Volatile Solvent Standard Operating Procedures; plans for safe storage, use, and disposal of solvents; and policies for continuous staff monitoring of all processes involving volatile solvents;

(E) Any tetrahydrocannabinol in a marijuana product manufactured by a manufacturing licensee shall only be derived from marijuana cultivated in Missouri by a licensed cultivator;

(F) Manufactured product may not contain chemical modification, conversion, or synthetic derivation of cannabinoids to produce intoxicating cannabinoid isomers, and all cannabinoids acquired from entities other than marijuana facilities for purpose of inclusion in marijuana product must be accompanied by a Certificate of Analysis at time of acquisition that identifies the testing lab that tested the product and lists the product's ingredients; and

(G) Manufacturing licensees shall track all ingredients used in any given manufactured product.

AUTHORITY: Sections 1.3.(1)(b), 1.3.(2), 2.4(1)(b), and 2.4(4) of Article XIV, Mo. Const. Emergency rule filed January 20, 2023, effective February 3, 2023, expires August 1, 2023. Original rule filed January 20, 2023.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Health and Senior Services, 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.*

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 100—Division of Cannabis Regulation
Chapter 1—Marijuana

PROPOSED RULE

19 CSR 100-1.180 Dispensary Facilities

PURPOSE: Under Article XIV, Sections 1 and 2 of the Missouri Constitution, the Department of Health and Senior Services has the authority to regulate and control medical and marijuana facilities and licensees. This rule explains what regulations apply to dispensary facilities and licensees.

(1) Medical and Marijuana Dispensary Facilities Generally. A dispensary facility licensee's authority to engage in the process of dispensing marijuana product includes the ability to—

(A) Acquire and transfer marijuana, marijuana seeds, clones, and prerolls from a cultivation facility;

(B) Acquire and transfer marijuana-infused products and prerolls from a manufacturing facility;

(C) Acquire and transfer marijuana product from another dispensary facility;

(D) Process marijuana product for the purpose of producing and selling prerolls, which does not include the manufacture of marijuana-infused products;

(E) Package and store (on- or off-site) marijuana product and drug paraphernalia used to administer marijuana product;

(F) Transport and sell or distribute marijuana product and drug paraphernalia to another dispensary facility, manufacturing facility, cultivation facility, testing facility, or individuals authorized to purchase marijuana product for personal or medical use, as follows:

1. A medical dispensary licensee may only sell or distribute to individuals who are qualifying patients or primary caregivers; and

2. A comprehensive or microbusiness dispensary licensee may sell or distribute to individuals who are consumers, qualifying patients, or primary caregivers; and

(G) Transfer marijuana product to or from its own offsite warehouse.

(2) Dispensary Facility and Licensee Requirements. In addition to this chapter's requirements for licensed facilities and licensees, dispensary facilities and licensees shall also comply with the following:

(A) Dispensary facility licensees must design their facility and staffing in such a way as to accomplish the following:

1. The general public may only enter the facility through one (1) public access point into an area where facility agents shall screen individuals for qualifying patient, primary caregiver, or consumer status. No marijuana product may be accessible in this area. Drive-through lanes shall not constitute an additional access point to the facility;

2. No one under the age of 21 may enter any areas beyond the facility's public access point area, unless the individual is a qualifying patient or accompanying a parent or guardian who is a qualifying patient, primary caregiver, or consumer;

3. In any limited access area where marijuana product is accessible within the facility, the facility must have at least one (1) facility agent present for every three (3) consumers, qualifying patients, or primary caregivers, combined. A facility agent serving a consumer, qualifying patient, or primary caregiver at a drive-through window or pick-up window is not available to accompany a consumer, qualifying patient, or primary caregiver in the limited access area as long as the staff person is serving the drive-through consumer, qualifying patient, or primary caregiver; and

4. Drive-through lanes and pickup windows must—

A. Utilize drawers or pneumatic tubes for dispensing marijuana product;

B. Provide for clear visibility of the consumer, qualifying patient, or primary caregiver for verification of identity. Drive-through and pick-up windows must either be constructed so that they do not open or remain closed and locked at all times; and

C. Be covered at all times by video camera monitoring and recording that meets the standards described in this chapter;

5. Dispensary facilities must have posted at each point of egress, and on, beside, or immediately above all drive-through drawers, a department-approved sign that conveys the following warning:

"It is against the law to operate a dangerous device, motor vehicle, aircraft, or motorboat while under the influence of marijuana."

(B) Prior to sale, delivery, or distribution, dispensary licensees shall verify all of the following through the statewide track and trace system:

1. Any marijuana product the facility sells, delivers, or distributes has been tested by a testing facility, according to the provisions of this chapter, and passed all required testing for the product type, including prerolls created at a dispensary facility; and

2. The marijuana product has not been placed on administrative hold, recalled, or ordered or otherwise required to be destroyed;

(C) Dispensary licensees shall not sell, deliver, or distribute to a consumer, qualifying patient, or primary caregiver more marijuana product than the lawful amounts.

1. Licensees may not sell, deliver, or distribute to a consumer more than three (3) ounces of dried, unprocessed marijuana, or its equivalent, in a single transaction and shall report to the department any instances of consumers attempting to make multiple purchases in close succession that the licensee knows, or reasonably should know, would likely result in the consumer exceeding limits on possession.

2. Licensees may not sell, deliver, or distribute to a qualifying patient or primary caregiver on behalf of a qualifying patient, any amount of dried, unprocessed marijuana, or its equivalent, that would result in the purchase of more than that qualifying patient's physician- or nurse practitioner-authorized amount;

(D) Transactions.

1. For every transaction, dispensary licensees must receive the transaction order directly from a consumer, qualifying patient, or primary caregiver in person, by phone, or via the internet.

A. If a dispensary licensee receives transactions via the internet, it must ensure that the third party entity providing services for online ordering—

(I) Utilizes security measures sufficient to protect the confidentiality and security of consumer, qualifying patient, and primary caregiver information;

(II) Does not collect or distribute consumer, qualifying patient, or primary caregiver data for use in any way other than for the online ordering process; and

(III) Seeks and obtains appropriate authority from the department for integration with the statewide track and trace system, if integration is necessary, prior to providing services.

2. At the time of sale or distribution, licensees must—

A. Verify through the statewide track and trace system that—

(I) Medical marijuana product transactions are made only by qualifying patients or primary caregivers who are currently authorized to purchase the amount of medical marijuana product requested;

(II) Consumers purchasing marijuana product do not exceed the purchase limits set forth above; and

(III) A consumer, qualifying patient, or primary caregiver purchasing plants is currently authorized to cultivate marijuana;

B. Verify that the marijuana product is not past its "best by" date;

C. Require production of a qualifying patient or primary caregiver identification card if applicable or production of a substantially equivalent identification card issued in another state, a valid government-issued photo ID, and in the case of marijuana seed or plant purchases, a cultivation identification card. In the case of delivery orders, such documentation must be produced at the time of delivery. Licensees must verify that—

(I) Patients acquiring medical marijuana product are at least eighteen (18) years of age or are emancipated individuals under the age of eighteen (18); or

(II) Patients under the age of eighteen (18) have a primary caregiver who is making the acquisition on their behalf; or

(III) All consumers are at least twenty-one (21) years of age or older;

D. For any transaction involving a qualifying patient, primary caregiver, or personal cultivation purchase, scan the department-issued identification card barcode in order to adequately track purchases in the statewide track and trace system;

E. Receive payment before the marijuana product leaves the dispensary facility, or, in the case of a delivery order, receive payment at any point in time up until and including the time of delivery.

(I) In the case of a delivery order, payment is subject to refund if the delivery cannot be completed.

(II) If not receiving pre-payment for a delivery order, a dispensary licensee may deliver to no more than two (2) individuals at the same address on the same day; and

F. Record the disbursement of marijuana product, including plants and seeds, in the statewide track and trace system, even in instances where prices are discounted or waived;

(E) Dispensary licensees that sell ingestible marijuana-infused products shall ensure the storage and handling of the manufactured product complies with the applicable food safety standards set forth in chapter 19 CSR 20 and any relevant statutes controlling food safety standards;

(F) Dispensary licensees shall only sell marijuana plants acquired from licensed cultivation facilities.

1. Dispensary licensees shall not sell marijuana plants to a consumer, qualifying patient, or primary caregiver who is not currently authorized to cultivate marijuana.

2. Only plants less than eight (8) inches tall and less than eight (8) inches wide may be sold by dispensary licensees, and dispensary licensees may not alter the plant or care for it in any way other than watering and providing light.

3. If a dispensary licensee chooses to sell plants, the transaction shall proceed as follows:

A. Dispensary licensees shall receive an order and payment from a consumer, qualifying patient, or primary caregiver prior to arranging for transfer of the plant from a cultivation facility to the dispensary facility. The dispensary licensee may not hold any particular plant for more than five (5) days;

B. The licensee will schedule a time for the licensed consumer, qualifying patient, or primary caregiver to pick up the order within the five- (5-) day timeframe;

C. When the licensee accepts transfer of a plant from a cultivation facility, it must store the plant, with the consumer's, qualifying patient's, or primary caregiver's name and license number, in its vault;

D. If a consumer, qualifying patient, or primary caregiver does not pick up the order, the licensee must dispose of the plant upon expiration of the five (5) days and record the disposal and method of disposal in the statewide track and trace system; and

E. In a single transaction, no more than six (6) plants less than eight (8) inches tall may be sold to a consumer or to or on behalf of a particular patient;

(G) Refunds or credits may be issued as needed, but returns of marijuana product may only be accepted for purposes of disposal;

(H) Dispensary licensees must make available to all consumers, qualifying patients, and primary caregivers educational materials, whether digital or print, that include at least the following:

1. Local resources for concerns about addiction, including the phone number for the Substance Abuse and Mental Health Services Administration's National Helpline;

2. Information about potential risks and possible side effects of marijuana use, including:

A. Marijuana use affects brain functioning, and is likely to cause physical and mental impairment;

B. Those who consume marijuana should not operate a motor vehicle or other similar equipment;

C. Women who are or may become pregnant or are breastfeeding should avoid using marijuana as it may cause pregnancy complications, harm your baby's development, and result in a lower birth weight;

D. Secondhand smoke from marijuana can have psychoactive effects, and should be avoided for all children; and

E. The risk of poisoning and the phone number for the Missouri Poison Center;

3. Information about the different ways to administer marijuana product and the differences in the anticipated time frames for the marijuana product to take affect; and

4. The Department's contact information and website address;

(I) Dispensary facilities may securely display samples of each marijuana product offered for sale.

1. Marijuana product used as a display sample may not be dispensed to consumers, qualifying patients, or primary caregivers.

2. A facility agent may remove the sample from the secure display to allow a consumer, qualifying patient, or primary caregiver to inspect the display sample but shall immediately return the sample to the secure display once such inspection is complete.

3. Display samples shall be destroyed in accordance with this chapter within five (5) business days of the inventory associated with the mandatory test sample tag number being finished;

(J) Dispensary licensees shall store all marijuana product in a locked vault, a similarly secure locked enclosure, or in a warehouse when the facility is closed for business;

(K) Dispensaries shall limit the amount of money available in any retail area of the facility and shall notify the public that there is a minimal amount of money available, including by posting of a sign;

(L) Dispensary licensees may offer marijuana product disposal services for consumers, qualifying patients, and primary caregivers.

1. Dispensary licensees may charge a reasonable disposal fee.

2. Any marijuana product received for disposal must be logged in the statewide track and trace system and disposed within forty-eight (48) hours of receipt at the dispensary facility; and

(M) Any product of any kind available in a dispensary that is not marijuana product must be displayed separately from marijuana product and in a manner that clearly communicates the non-marijuana product is not regulated by the department.

AUTHORITY: Sections 1.3.(1)(b), 1.3.(2), 2.4(1)(b), and 2.4(4) of Article XIV, Mo. Const. Emergency rule filed January 20, 2023, effective February 3, 2023, expires August 1, 2023. Original rule filed January 20, 2023.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Health and Senior Services, 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.*

Title 19—DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 100—Division of Cannabis Regulation
Chapter 1—Marijuana

PROPOSED RULE

19 CSR 100-1.190 Microbusinesses

PURPOSE: Under Article XIV, Section 2 of the Missouri Constitution, the Department of Health and Senior Services has the authority to regulate and control marijuana microbusiness facilities and licensees. This rule explains what regulations apply only to microbusiness facilities and licensees.

(1) Microbusiness Facilities, Generally.

(A) Entities must obtain a license to cultivate, manufacture, and dispense marijuana product in Missouri as a Marijuana Microbusiness. Application requirements are outlined in the application section of this chapter.

1. An entity may apply for, obtain, and be an owner of only one license to operate a marijuana microbusiness facility, which may be either a microbusiness dispensary facility or a microbusiness wholesale facility.

(B) Applicants for a marijuana microbusiness license shall be majority owned and operated by individuals who each meet at least one of the following qualifications:

1. Have a net worth of less than two hundred fifty thousand dollars ($250,000) and have had an income below two hundred fifty percent (250%) of the federal poverty level, or a successor level, as set forth in the applicable calendar year's federal poverty income guidelines published by the U.S. Department of Health and Human Services or its successor agency, for at least three (3) of the ten (10) calendar years prior to applying for a marijuana microbusiness facility license;

2. Have a valid service-connected disability card issued by the United States Department of Veterans Affairs, or successor agency;

3. Be a person who has been, or a person whose parent, guardian, or spouse has been arrested for, prosecuted for, or convicted of a non-violent marijuana offense at least one (1) year prior to the effective date of this section, unless the conviction—

A. Involved provision of marijuana to a minor; or

B. Was for driving under the influence of marijuana;

4. Reside in a ZIP code or census tract area where—

A. Thirty percent (30%) or more of the population lives below the federal poverty level;

B. The rate of unemployment is fifty percent (50%) higher than the state average rate of unemployment; or

C. The historic rate of incarceration for marijuana-related offenses is fifty percent (50%) higher than the rate for the entire state; or

5. Graduated from a school district that was unaccredited, or had a similar successor designation, at the time of graduation, or has lived in a ZIP code containing an unaccredited school district, or similar successor designation, for three (3) of the past five (5) years.

(C) Once an individual owner of a licensed microbusiness facility is deemed eligible for qualifying majority ownership under this rule, subsequent change in circumstances will not affect eligibility.

(D) An owner of a marijuana microbusiness facility may not also be an owner of another licensed marijuana or medical facility, except—

1. A microbusiness licensee may apply for a medical or marijuana facility license during an application window. If the microbusiness licensee is granted one (1) or more of these licenses, the microbusiness facility shall transition licensed operations on a reasonably practical timetable established by the department, and surrender its microbusiness facility license; and

2. An owner of a microbusiness facility who wishes to become an owner in an existing marijuana or medical facility must relinquish ownership interest in the microbusiness facility license prior to or at the time of department approval of the ownership change for the existing marijuana or medical facility.

(E) Microbusiness facilities and licensees must comply with all applicable sections within this chapter.

(2) Microbusiness Dispensary Facility Licensees, Generally.

(A) A microbusiness dispensary facility is licensed to engage in the process of dispensing marijuana product for medical or adult use, in compliance with the dispensary facility rule in this chapter. A licensed microbusiness dispensary facility may choose to do all or only a subset of the activities authorized under its license.

(B) Microbusiness dispensary licensees shall only acquire marijuana product from a microbusiness wholesale licensee or another microbusiness dispensary licensee.

(3) Microbusiness Wholesale Licensees, Generally.

(A) A microbusiness wholesale facility is licensed to engage in the process of cultivating and manufacturing marijuana product for medical or adult use, in compliance with the cultivation facility and manufacturing facility rules in this chapter. A licensed microbusiness wholesale facility may choose to do all or only a subset of the activities authorized under its license.

(B) A microbusiness wholesale licensee may only transfer its products to a testing facility, transportation facility, microbusiness dispensary licensee, or to another microbusiness wholesale licensee.

AUTHORITY: Sections 1.3.(1)(b), 1.3.(2), 2.4(1)(b), and 2.4(4) of Article XIV, Mo. Const. Emergency rule filed January 20, 2023, effective February 3, 2023, expires August 1, 2023. Original rule filed January 20, 2023.

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