DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

MARIJUANA REGULATORY AGENCY

MARIHUANA LICENSES

(By authority conferred on the executive director of the marijuana regulatory agency by section 206 of the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27206, sections 7 and 8 of the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27957 and 333.27958, and Executive Reorganization Order No. 2019-2, MCL 333.27001)

R 420.1 Definitions.

Rule 1. (1) As used in these rules:

(a) "Acts" refers to the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801, and the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27951 to 333.27967, when applicable.

(b) "Agency" means the marijuana regulatory agency.

(c) "Applicant" means a person who applies for a marihuana license, subject to paragraphs (i) and (ii) of this subdivision:

(i) For purposes of this definition, an applicant includes a managerial employee of the applicant, a person holding a direct or indirect ownership interest of more than 10% in the applicant, and the following for each type of applicant:

(A) For an individual or sole proprietorship: the proprietor and spouse.

(B) For a partnership and limited liability partnership: all partners and their spouses.

(C) For a limited partnership and limited liability limited partnership: all general and limited partners, not including a limited partner holding a direct or indirect ownership interest of 10% or less who does not exercise control over or participate in the management of the partnership, and their spouses.

(D) For a limited liability company: all members and managers, not including a member holding a direct or indirect ownership interest of 10% or less who does not exercise control over or participate in the management of the company, and their spouses.

(E) For a privately held corporation: all corporate officers or persons with equivalent titles and their spouses, all directors and their spouses, all stockholders, not including those holding a direct or indirect ownership interest of 10% or less, and their spouses.

(F) For a publicly held corporation: all corporate officers or persons with equivalent titles and their spouses, all directors and their spouses, all stockholders, not including those holding a direct or indirect ownership interest of 10% or less, and their spouses.

(G) For a multilevel ownership enterprise: any entity or person that receives or has the right to receive more than 10% of the gross or net profit from the enterprise during any full or partial calendar or fiscal year.

(H) For a nonprofit corporation: all individuals and entities with membership or shareholder rights in accordance with the articles of incorporation or the bylaws and their spouses.

(I) For a trust**:** trustees, any individual or body able to control and direct the affairs of the trust, and any beneficiary who receives or has the right to receive more than 10% of the gross or net profit of the trust during any full or partial calendar or fiscal year and their spouses.

(ii) For purposes of this definition, an applicant does not include:

(A) A person who provides financing to an applicant or licensee under a bona fide financing agreement at a reasonable interest rate unless the person exercises control over or participates in the management of the marihuana business.

(B) A franchisor who grants a franchise to an applicant, if the franchisor does not have the right to receive royalties based upon the sale of marihuana or marihuana-infused products by the applicant who is a franchisee. Nothing in this subrule shall be construed to preclude a franchisor from charging an applicant who is a franchisee a fixed fee. As used in this definition, the terms "franchise," "franchisor," and "franchisee" have the meanings set forth in section 2 of the franchise investment law, 1974 PA 269, MCL 445.1502.

(C) A person receiving reasonable payment for rent on a fixed basis under a bona fide lease or rental obligation unless the person exercises control over or participates in the management of the marihuana business.

(D) A person receiving reasonable payment under a licensing agreement or contract approved by the agency concerning the licensing of intellectual property including, but not limited to, brands and recipes.

(E) A person who receives a percentage of profits as an employee if the employee does not meet the definition of "managerial employee" and the employee does not receive more than 10% of the gross or net profit from the licensee during any full or partial calendar or fiscal year.

(F) A person who receives a bonus as an employee if the employee is on a fixed wage or salary and the bonus is not more than 25% of the employee's pre-bonus annual compensation or if the bonus is based upon a written incentive/bonus program that is not out of the ordinary for the services rendered.

(d) "Building" means a combination of materials forming a structure affording facility, establishment, or shelter for use or occupancy by individuals or property. Building includes a part or parts of the building and all equipment in the building. A building does not include a building incidental to the use for agricultural purposes of the land on which the building is located.

(e) "Bureau of fire services" or "BFS" means the bureau of fire services in the department of licensing and regulatory affairs.

(f) "Common ownership" means 2 or more state licenses or 2 or more equivalent licenses held by one person under the Michigan Regulation and Taxation of Marihuana Act.

(g) "Complete application" means an application that includes all of the information required in R 420.2 to R 420.5 and R 420.7 to R 420.10.

(h) "Department" means the department of licensing and regulatory affairs.

(i) "Designated consumption establishment" means a commercial space that is licensed by the agency and authorized to permit adults 21 years of age and older to consume marihuana products at the location indicated on the state license issued under the Michigan Regulation and Taxation of Marihuana Act.

(j) "Director" means the director of the department of licensing and regulatory affairs or his or her designee.

(k) "Employee" means a person performing work or service for compensation. "Employee" does not include individuals providing trade or professional services who are not normally engaged in the operation of a marihuana business.

(l) "Equivalent licenses" means any of the following held by a person:

(i) A marihuana grower license of any class issued under the Michigan Regulation and Taxation of Marihuana Act and a grower license, of any class, issued under the medical marihuana facilities licensing act.

(ii) A marihuana processor license issued under the Michigan Regulation and Taxation of Marihuana Act and a processor license issued under the medical marihuana facilities licensing act.

(iii) A marihuana retailer license issued under the Michigan Regulation and Taxation of Marihuana Act and a provisioning center license issued under the medical marihuana facilities licensing act.

(iv) A marihuana secure transporter license issued under the Michigan Regulation and Taxation of Marihuana Act and a secure transporter license issued under the medical marihuana facilities licensing act.

(v) A marihuana safety compliance facility license issued under the Michigan Regulation and Taxation of Marihuana Act and a safety compliance facility license issued under the medical marihuana facilities licensing act.

(m) "Excess marihuana grower" means a license issued to a person holding 5 class C marihuana grower licenses and licensed to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments.

(n) "Immature plant" means a nonflowering marihuana plant that is no taller than 8 inches from the growing or cultivating medium and no wider than 8 inches produced from a cutting, clipping, tissue culture, or seedling that is in a growing or cultivating medium or in a growing or cultivating container.

(o) "Limited access area" means a building, room, or other contiguous area of a marihuana business where marihuana is grown, cultivated, stored, weighed, packaged, sold, or processed for sale and that is under the control of the licensee.

(p) "Managerial employee" means those employees who have the ability to control and direct the affairs of the marihuana business or have the ability to make policy concerning the marihuana business, or both.

(q) "Marihuana business" means a marihuana facility under the medical marihuana facilities licensing act, or a marihuana establishment under the Michigan Regulation and Taxation of Marihuana Act, or both.

(r) "Marihuana business location plan" means a marihuana facility plan under the medical marihuana facilities licensing act, or a marihuana establishment plan under the Michigan Regulation and Taxation of Marihuana Act, or both.

(s) "Marihuana establishment" means a marihuana grower, marihuana safety compliance facility, marihuana processor, marihuana microbusiness, marihuana retailer, marihuana secure transporter, or any other type of marihuana-related business licensed by the agency under the Michigan Regulation and Taxation of Marihuana Act.

(t) "Marihuana event organizer" means a person licensed to apply for a temporary marihuana event license under these rules.

(u) "Marihuana facility" means a location at which a licensee is licensed to operate under the medical marihuana facilities licensing act.

(v) "Marihuana license" means a state operating license issued under the medical marihuana facilities licensing act, or a state license issued under the Michigan Regulation and Taxation of Marihuana Act, or both.

(w) "Marihuana product" means marihuana or a marihuana-infused product, or both, as those terms are defined in the acts unless otherwise provided for in these rules.

(x) “Marihuana tracking act” means the marihuana tracking act, 2016 PA 282, MCL 333.27901 to 333.27904.

(y) “Marihuana transporter” means a secure transporter under the medical marihuana facilities licensing act or a marihuana secure transporter under the Michigan Regulation and Taxation of Marihuana Act, or both.

(z) “Medical marihuana facilities licensing act” or “MMFLA” means the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801.

(aa) “Michigan Medical Marihuana Act” means the Michigan Medical Marihuana Act, 2008 IL 1, MCL 333.26421 to 333.26430.

(bb) “Michigan Regulation and Taxation of Marihuana Act” or “MRTMA” means the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27951 to 333.27967.

(cc) “Proposed marihuana business” means a proposed marihuana establishment under the Michigan Regulation and Taxation of Marihuana Act or a proposed marihuana facility under the medical marihuana facilities licensing act, or both.

(dd) “Restricted access area” means a designated and secure area at a marihuana business where marihuana products are sold, possessed for sale, or displayed for sale.

(ee) “These rules” means the administrative rules promulgated by the agency under the authority of the medical marihuana facilities licensing act, the marihuana tracking act, the Michigan Regulation and Taxation of Marihuana Act, and Executive Reorganization Order No. 2019-2, MCL 333.27001.

(ff) “Same location” means separate marihuana licenses that are issued to multiple marihuana businesses that are authorized to operate at a single property but with separate business suites, partitions, or addresses.

(gg) “Special license” means a state license as described under section 8 of the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27958, and issued pursuant to section 9 of that act, MCL 333.27959.

(hh) “Stacked license” means more than 1 marihuana license issued to a single licensee to operate as a class C grower as specified in each license at a marihuana business under the medical marihuana facilities licensing act, or under the Michigan Regulation and Taxation of Marihuana Act, or both.

(ii) “Tag” or “RFID tag” means the unique identification number or Radio Frequency Identification (RFID) issued to a licensee by the statewide monitoring system for tracking, identifying, and verifying marihuana plants, marihuana products, and packages of marihuana product in the statewide monitoring system.

(jj) “Temporary marihuana event license” means a state license held by a marihuana event organizer under the Michigan regulation and taxation of marihuana act, for an event where the onsite sale or consumption of marihuana products, or both, are authorized at the location indicated on the state license.

(2) Terms defined in the acts have the same meanings when used in these rules unless otherwise indicated.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.2 Licensure; application; background investigation; consent to inspections, investigations, and audits; disclosure of confidential records; interest in other state license; fee; additional costs.

Rule 2. (1) A person may apply to the agency for marihuana licenses and special licenses as provided in the acts and these rules.

(2) The agency shall use information provided on the application as a basis to conduct a thorough background investigation on the applicant. The agency shall notify the applicant of a deficiency and provide instructions for submitting a complete application. The applicant shall timely respond to the notice of the deficiency in accordance with R. 420.5.

(3) An applicant must provide written consent to investigations of compliance, regular inspections, examinations, searches, seizures, and auditing of books and records and to disclosure to the agency and its agents of otherwise confidential records, including tax records held by any federal, state, or local agency, or credit bureau or financial institution, while applying for or holding a marihuana license as authorized under the acts and these rules.

(4) An applicant must certify that the applicant does not have any interest in any other marihuana license that is prohibited under the acts.

(5) A nonrefundable application fee must be paid at the time of filing to defray the costs associated with the background investigation conducted by the agency. The agency shall set the amount of the application fee for each category and class of license by rule. If the costs of the investigation and processing the application exceed the application fee, the applicant shall pay the additional amount to the agency. All information, records, interviews, reports, statements, memoranda, or other data supplied to or used by the agency in the course of its review or investigation of an application for a marihuana license under the acts shall be disclosed only in accordance with the acts.

History: 2020 AACS.

R 420.3 Application procedure; requirements.

Rule 3. (1) A person shall apply for a marihuana license on the form created by the agency and pay a nonrefundable application fee at the time the application is submitted. The applicant shall answer each question on the application, under oath, in its entirety. All attestations, disclosures, and information requested and required by the agency, the acts, and these rules must be submitted in the application. Failure to comply with these rules and the application requirements in the acts is grounds for denial of the application.

(2) A person may submit a partial application under these rules on the condition that it is to prequalify to complete the remaining application requirements. This application has a pending status until all application requirements in these rules are completed, or the agency denies the partial or complete application. The agency shall not issue a marihuana license at this stage of the application process. The finding of prequalification status for a pending application is valid for 2 year**s** after the agency issues a notice of prequalification status. After 2 years has expired, the applicant may be required to submit a new application and pay a new nonrefundable application fee.

(3) A partial application filed to obtain prequalification status may be administratively withdrawn if the application was filed and has been pending for more than 1 year. After a partial application has been administratively withdrawn, the applicant may be required to submit a new application and pay a new nonrefundable application fee.

(4) The agency may request additional disclosures and documentation from an applicant. The applicant shall submit the information requested by the agency within 5 days pursuant to R. 420.5 or the application may be denied.

(5) The agency may administratively withdraw an application for a marihuana license that was submitted and has been pending for more than 1 year. After an application has been administratively withdrawn, the applicant may be required to submit a new application.

(6) The agency may administratively withdraw an amendment to any application or marihuana license if the applicant or licensee fails to respond or submit documentation to cure all deficiencies within 30 days after notice of the deficiency.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.4 Application requirements; financial and criminal background.

Rule 4. (1) Each applicant shall disclose the identity of any other person who controls, either directly or indirectly, the applicant, including, but not limited to, date of birth, government issued identification, and any other documents required by the agency.

(2) Each applicant shall disclose the financial information required in the acts and these rules on a form created by the agency, which may include the following:

(a) For an applicant seeking licensure under the MMFLA, required information may include, but is not limited to, all of the following:

(i) Financial statements regarding all of the following:

(A) A pecuniary interest.

(B) Any deposit of value of the applicant or made directly or indirectly to the applicant, or both.

(C) Financial accounts including, but not limited to, all of the following: funds, savings, checking, or other accounts including all applicable account information, such as the name of the financial institution, names of the account holders, account type, account balances, and a list of all loans types specified by the agency, amounts, securities, or lender information.

(ii) Property ownership information, including, but not limited to, deeds, leases, rental agreements, real estate trusts, or purchase agreements.

(iii) Tax information, including, but not limited to, W-2 and 1099 forms, and any other information required by the agency.

(iv) Disclosure by the applicant of the identity of any other person who meets either of the following:

(A) Controls, directly or indirectly, the applicant.

(B) Is controlled, directly or indirectly, by the applicant or by a person who controls, directly or indirectly, the applicant.

(v) The sources and total amount of the applicant's capitalization to operate and maintain the proposed marihuana facility in compliance with R 420.11.

(vi) A financial statement attested by a certified public accountant (CPA), on a form created by the agency, including a foreign-attested CPA statement, or its equivalent if applicable on capitalization pursuant to R 420.11.

(vii) Information on the financial ability of the applicant to purchase and maintain adequate liability and casualty insurance in compliance with R 420.10.

(**viii**) Any other documents, disclosures, or attestations created or requested by the agency that are not inconsistent with the acts or these rules.

(b) For an applicant seeking licensure under the MRTMA all of the following may be required:

(i) Tax information, including, but not limited to:

(A) W-2 forms for the most recent tax year.

(B) 1099 forms for the most recent tax year.

(ii) Any other information relevant to the application for licensure required by the agency.

(3) Each applicant shall disclose the identity of every person having a 2.5% or greater ownership interest in the applicant with respect to which the license is sought.

(a) If the disclosed entity is a trust, the applicant shall disclose the names and addresses of the beneficiaries.

(b) If the disclosed entity is a privately held corporation, the names and addresses of all shareholders, officers, and directors.

(c) If the disclosed entity is a publicly held corporation, the names and addresses of all shareholders holding a direct or indirect interest of greater than 5%, officers, and directors.

(d) If the disclosed entity is a partnership or limited liability partnership, the names and addresses of all partners.

(e) If the disclosed entity is a limited partnership or limited liability limited partnership, the names of all partners, both general and limited.

(f) If the disclosed entity is a limited liability company, the names and addresses of all members and managers.

(4) Each applicant shall disclose the applicant's business organizational documents filed with this state, any other state, local county, or foreign entity, if applicable, including proof of registration to do business in this state and certificate of good standing from this state, any other state, or foreign entity, if applicable.

(5) Each applicant shall disclose to the agency criminal and financial background information and regulatory compliance as provided under the acts and these rules on a form created by the agency.

(6) Each applicant shall provide written consent to a criminal and financial background investigation as authorized under the acts and these rules.

(7) Each applicant shall provide an attestation acknowledging that sanctions may be imposed for violations on a licensee while licensed or after the marihuana license has expired, as provided in the acts and these rules.

(8) Each applicant shall provide an attestation affirming a continuing duty to provide information requested by the agency and to cooperate in any investigation, inspection, inquiry, or hearing.

(9) Each applicant shall disclose any noncompliance with any regulatory requirements, all legal judgments, lawsuits, legal proceedings, charges, or government investigations, whether initiated, pending, or concluded, against the applicant, that are related to business operations, including, but not limited to fraud, environmental, food safety, tobacco, alcohol, labor, employment, worker's compensation, discrimination, and tax laws and regulations, in this state or any other jurisdiction.

(10) Each applicant shall disclose any application or issuance of any commercial license or certificate issued in this state or any other jurisdiction that meets the requirements under the acts and these rules.

(11) Each applicant shall provide any other documents or attestations created by, or make any disclosures requested by, the agency that are not inconsistent with the acts or these rules.

(12) An applicant shall submit in the application any information requested and required by the acts and these rules.

(13) Each applicant seeking licensure under the MMFLA must submit one set of fingerprints to the department of state police in accordance with section 402 of the MMFLA, MCL 333.27402.

(14) Each applicant seeking licensure under the MRTMA shall provide an attestation acknowledging that the applicant must have a physical structure for the marihuana establishment and pass the prelicensure inspection within 60 calendar days of submitting a complete application

to the agency. Failure to pass the prelicensure inspection within 60 calendar days of submitting the complete application to the agency may result in the application begin denied in accordance with R 420.12.

(15) An applicant shall provide an attestation signed by a representative of the department of treasury and the applicant, verifying that the applicant is not delinquent in the payment of sales, excise, or any other taxes.

(16) An applicant seeking licensure under the MRTMA shall provide a social equity plan detailing a plan to promote and encourage participation in the marihuana industry by people from communities that have been disproportionately impacted by marihuana prohibition and enforcement and to positively impact those communities.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R. 420.5 Application requirements; complete application.

Rule 5. (1) A complete application for a marihuana license must include all the information required in R 420.2 to R 420.4, R 420.7 to R 420.10, and all of the following:

(a) A description of the type of marihuana business that includes all of the following:

(i) An estimate or actual number of employees.

(ii) A business plan.

(iii) The proposed location of the marihuana business.

(iv) A security plan, as required under the acts and these rules.

(b) A copy of the proposed marihuana business location plan as required under R 420.8.

(c) The disclosure of both of the following persons:

(i) For an applicant seeking licensure under the MMFLA, persons that have a beneficial interest as required in section 303(1)(g) of the MMFLA, MCL 333.27303.

(ii) For an applicant seeking licensure under the MRTMA, persons who have a direct or indirect ownership interest in the marihuana establishment.

(d) For an applicant seeking licensure under the MMFLA, confirmation of municipal compliance on an attestation form provided by the agency that ~~contains~~ includes all of the following:

(i) Written affirmation that the municipality has adopted an ordinance under section 205 of the MMFLA, MCL 333.27205, including**,** if applicable, a description of any limitations on the number of each type of marihuana facility.

(ii) A description of any regulations within the municipality that apply to the proposed marihuana business.

(iii) The date and signature of the clerk of the municipality or his or her designee on the attestation form attesting that the information stated in the document is correct.

(iv) The date and signature of the applicant.

(v) The name and address of the proposed marihuana ~~business~~ facility~~ name and address~~.

(vi) The license type of the proposed marihuana facility.

(vii) Attestation that the applicant will report any changes that occur with municipal ordinances or zoning regulations that relate to the proposed marihuana facility, any municipal facility approvals, or any violations of a municipal or zoning regulation.

(e) For an applicant seeking licensure under the MRTMA, confirmation of municipal compliance on an attestation form provided by the agency that includes all of the following:

(i) The name and address of the proposed marihuana establishment.

(ii) The license type or the proposed marihuana establishment.

(iii) The municipality where the proposed marihuana establishment is located.

(iv) The contact information for the municipality including the following at a minimum:

(A) The name of the clerk of the municipality or his or her designee.

(B) The telephone number of the clerk of the municipality or his or her designee.

(C) The email address of the clerk of the municipality or his or her designee.

(D) The mailing address of the clerk of the municipality or his or her designee.

(v) Confirmation that the municipality has not adopted an ordinance prohibiting the proposed marihuana establishment.

(vi) Confirmation that the applicant is in compliance with any ordinance the municipality has adopted relating to marihuana establishments within its jurisdiction, including zoning regulations.

(vii) Attestation that the applicant will report any changes that occur with municipal ordinances or zoning regulations that relate to the proposed marihuana establishment, any municipal establishment approvals, or any violations of a municipal or zoning regulation.

(viii) The date and signature of the applicant.

(2) Each applicant shall provide any additional information and documents requested by the agency not inconsistent with the acts and these rules.

(3) Each applicant shall provide any other documents, disclosures, or attestations created or requested by the agency that are not inconsistent with the acts and these rules.

(4) If the agency identifies a deficiency in an application, the agency shall notify the applicant and the applicant shall submit the missing information or proof that the deficiency has been corrected to the agency within 5 days of the date the applicant received the deficiency notice.

(5) The failure of an applicant to correct a deficiency within 5 days of notification by the agency may result in the denial of the application. An applicant denied under this subrule is not barred from reapplying by submitting a new application and application fee.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.6 State license under the Michigan regulation and taxation of marihuana act; issuance; qualifications; ineligibility.

Rule 6. (1) The agency shall not issue a state license under the MRTMA until a complete application is submitted, the fees required under these rules are paid, and the agency determines that the applicant is qualified to receive a state license under the acts and these rules. An applicant under MRTMA must pay initial licensure fees within 10 calendar days of approval of the state license or within 90 calendar days of submitting a complete application, whichever date is first. Failure to pay the fees required under R 420.7 may be grounds for the denial of state license.

(2) An applicant is ineligible to receive a state license if any of the following circumstances exist:

(a) The applicant has a prior conviction that involved distribution of a controlled substance to a minor.

(b) The applicant has knowingly submitted an application for a state license under the MRTMA that contains false information.

(c) The applicant is an employee, advisor, or consultant of the agency involved in the implementation, administration, or enforcement of the MRTMA or these rules pursuant to section 7 of the MRTMA, MCL 333.27957.

(d) The applicant holds an elective office of a governmental unit of this state, another state, or the federal government; is a member of or employed by a regulatory body of a governmental unit

in this state, another state, or the federal government**,** or is employed by a governmental unit of this state. This subdivision does not apply to any of the following:

(i) An elected officer of or employee of a federally recognized Indian tribe.

(ii) An elected precinct delegate.

(iii) The spouse of a person who applies for a state license unless the spouse's position creates a conflict of interest or is within any of the following:

(A) The marijuana regulatory agency.

(B) A regulatory body of a governmental unit in this state, another state, or the federal government that makes decisions regarding adult-use marijuana.

(e) The agency determines the municipality in which the applicant's proposed marihuana establishment will operate has adopted an ordinance that prohibits marihuana establishments or that the proposed establishment is noncompliant with an ordinance consistent with section 6 of the MRTMA, MCL 333.27956.

(f) The applicant will hold an ownership interest in both a marihuana safety compliance facility or in a marihuana secure transporter and in a marihuana grower, a marihuana processor, a marihuana retailer, ~~or~~ a marihuana microbusiness, or a class A marihuana microbusiness in violation of section 9 of the MRTMA, MCL 333.27959.

(g) The applicant will hold an ownership interest in both a marihuana microbusiness or a class A marihuana microbusiness and in a marihuana grower, a marihuana processor, a marihuana retailer, a marihuana safety compliance facility, or a marihuana secure transporter, in violation of section 9 of the MRTMA, MCL 333.27959.

(h) The applicant will hold an ownership interest in more than 5 marihuana growers or in more than 1 marihuana microbusiness or class A marihuana microbusiness, in violation of section 9 of the MRTMA, MCL 333.27959.

(i) The applicant fails to meet other criteria established in these rules.

(3) In determining whether to grant a state license to an applicant, the agency may also consider all of the following:

(a) Whether the applicant or anyone meeting the definition of applicant has a pattern of convictions involving dishonesty, theft, or fraud that indicate the proposed marihuana establishment is unlikely to be operated with honesty and integrity.

(b) Whether the applicant has been served with a complaint or other notice filed with any public body regarding payment of any tax required under federal, state, or local law that has been delinquent for 1 or more years.

(c) Whether the applicant has a history of noncompliance with any regulatory requirements, all legal judgments, lawsuits, legal proceedings, charges, or government investigations, whether initiated, pending, or concluded, against the applicant, that are related to business operations, including, but not limited to**,** fraud, environmental, food safety, labor, employment, worker's compensation, discrimination, and tax laws and regulations, in this state or any other jurisdiction.

(d) Whether the applicant meets other standards in rules applicable to the state license category.

(4) The agency shall review all applications for state licenses and inform each applicant of the agency's decision.

(5) An applicant or licensee has a continuing duty to provide information requested by the agency and to cooperate in any investigation, inquiry, or hearing conducted by the agency.

(6) A marihuana license is a revocable privilege granted by the agency and is not a property right. Granting a marihuana license does not create or vest any right, title, franchise, or other property

interest. A licensee or any other person shall not lease, pledge, borrow, or loan money against a marihuana license.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.7 Application; fees; assessment.

Rule 7. (1) At the beginning of each state fiscal year, the agency may increase the fees collected under the MRTMA by 10% in order to pay for implementation, administration, and enforcement of that act and these rules.

(2) An applicant for a marihuana license shall submit an application that is accompanied by the nonrefundable application fee of $3,000.

(3) If the costs of the investigation and processing the application exceed the application fee, the applicant shall pay the additional amount.

(4) Additional fees for state licenses under MRTMA are listed in table 1:

TABLE 1

State License Type	**Initial Licensure and Renewal Fees**
Class A Marihuana Grower	$1,200
Class B Marihuana Grower	$6,000
Class C Marihuana Grower	$24,000
Designated Consumption Establishment	$1,000
Excess Marihuana Grower	$24,000
Marihuana Event Organizer	$1,000
Marihuana Microbusiness	$8,300
Class A Marihuana Microbusiness	$18,600
Marihuana Processor	$24,000
Marihuana Retailer	$15,000
Marihuana Safety Compliance Facility	$15,000
Marihuana Secure Transporter	$15,000
Temporary Marihuana Event	See R 420.26
Marihuana Educational Research	N/A

(5) The agency shall establish and publish annually the regulatory assessment for licensees under the MMFLA pursuant to section 603 of the MMFLA, MCL 333.27603.

(**6**) An applicant shall pay the initial licensure fees or regulatory assessment, if applicable, on or before the date the licensee begins operating and the renewal fee annually thereafter, pursuant to these rules.

(**7**) The agency shall not issue a marihuana license until a complete application is submitted, the fees required under these rules are paid, and the agency determines that the applicant is qualified to receive a marihuana license under the acts and these rules. An applicant under the MRTMA must pay initial licensure fees within 10 calendar days of approval of the marihuana license or within 90 calendar days of submitting a complete application, whichever date is first. An applicant under the MMFLA must pay initial licensure fees within 10 calendar days of approval of the

marihuana license. An applicant must pay renewal fees upon submission of the application for renewal. Failure to pay the required fee may be grounds for the denial of a marihuana license in accordance with R 420.12.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.8 Marihuana business location plan.

Rule 8. (1) An applicant shall submit a marihuana business location plan for the proposed marihuana business as required in these rules and upon request by the agency. Upon the request of the agency, an applicant or licensee may be required to submit a revised marihuana business location plan.

(2) The marihuana business location plan must include, at a minimum**,** all of the following:

(a) The type of proposed marihuana business, the location of the marihuana business, a description of the municipality where the marihuana business will be located, and any of the following, if applicable:

(i) A statement that a combination of marihuana licenses will operate as separate marihuana businesses at the same location, as provided under these rules.

(ii) A statement in the marihuana business location plan that the applicant has or intends to apply to stack a marihuana license at the proposed marihuana business as provided under these rules.

(iii) For an applicant seeking licensure under the MRTMA, a statement that equivalent licenses will operate at the same location.

(b) A diagram of the marihuana business that includes, at a minimum, all of the following:

(i) The proposed marihuana business's size and dimensions.

(ii) Specifications of the marihuana business.

(iii) Physical address.

(iv) Location of common entryways, doorways, and passageways.

(v) Public entries and exits.

(vi) Limited access areas and restricted access areas.

(vii) An indication of the distinct areas or structures for separate marihuana businesses at the same location as provided in these rules.

(viii) Areas designated for contactless and limited contact transactions, if the marihuana business is a marihuana sales location.

(c) A detailed floor plan and layout that includes, at a minimum, all of the following:

(i) Dimensions of the marihuana business including interior and exterior rooms.

(ii) Maximum storage capabilities.

(iii) Number of rooms.

(iv) Dividing structures.

(v) Fire walls.

(vi) Entrances and exits.

(vii) Locations of hazardous material storage.

(viii) Quantities of hazardous materials, such as chemical, flammable/combustible liquids and gases, and the expected daily consumption of the hazardous materials.

(d) Means of egress, including, but not limited to, delivery and transfer points.

(e) Construction details for structures and fire-rated construction for required walls.

(f) Building structure information, including**,** but not limited to, new, pre-existing, freestanding, or fixed.

(g) Building type information, including, but not limited to, commercial, warehouse, industrial, retail, converted property, house, mercantile building, pole barn, greenhouse, laboratory, or center.

(h) Zoning classification and zoning information.

(i) If the proposed marihuana business is in a location that contains multiple tenants and any applicable occupancy restrictions.

(j) A proposed security plan that demonstrates the proposed marihuana business meets the security requirements specified in these rules.

(k) Any other information required by the agency if not inconsistent with the acts and these rules.

(3) Any changes or modifications to the marihuana business location plan under this rule must be reported to the agency and may require preapproval by the agency.

(4) The agency may provide a copy of the marihuana business location plan to the BFS, local fire department, Michigan state police, local law enforcement, and building officials for use in review and planning.

(5) The agency may reinspect the marihuana business to verify the plan at any time during the business's hours of operation and may require that the plan be resubmitted upon renewal.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.9 Rescinded.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.10 Proof of financial responsibility; insurance.

Rule 10. (1) Before a marihuana license is issued or renewed, the licensee or renewal applicant shall file a proof of financial responsibility for liability for bodily injury to lawful users resulting from the manufacture, distribution, transportation, or sale of adulterated marihuana or adulterated marihuana-infused products on the form prescribed by the agency, for an amount not less than $100,000.00. If the proof required in this subrule is a bond, the bond must be in a format acceptable to the agency.

(2) In addition to the requirements in subrule (1) of this rule, a marihuana transporter shall show proof of auto insurance, vehicle registration, and registration as a commercial motor vehicle, as applicable, for any vehicles used to transport marihuana product as required by the acts and these rules.

(3) For an applicant seeking licensure for a marihuana event organizer license under the MRTMA, proof of financial responsibility for liability for bodily injury is not required. A marihuana event organizer licensee shall file a proof of financial responsibility for liability for bodily injury when applying for a temporary marihuana event license or proof that each marihuana microbusiness, class A marihuana microbusiness, and marihuana retailer participating in the temporary marihuana event has coverage for liability for bodily injury when applying for a temporary marihuana event license.

(4) In addition to the proof of financial responsibility requirements contained in subrule (1) of this rule, a renewal applicant or licensee holding a license under the MMFLA shall also carry commercial general liability insurance covering premises liability for an amount not less than $100,000.00. An applicant shall provide proof of commercial general liability insurance covering

the premises liability to the agency no later than 60 days after a state operating license is issued or renewed.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.11 Capitalization requirements; medical marihuana facilities licensing act.

Rule 11. (1) An applicant for initial licensure under the medical marihuana facilities licensing act shall disclose the sources and total amount of capitalization to operate and maintain a proposed marihuana facility.

(2) The total amounts of capitalization based on the type of marihuana facility specified in the application for a state operating license are as follows:

(a) Grower - Class A: $150,000.00.

(b) Grower - Class B: $300,000.00.

(c) Grower - Class C: $500,000.00.

(d) Processor: $300,000.00.

(e) Provisioning Center: $300,000.00.

(f) Secure Transporter: $200,000.00.

(g) Safety Compliance Facility: $200,000.00.

(3) An applicant under the MMFLA shall provide proof to the agency of the capitalization amounts specified in subrule (2)(a) to (g) of this rule from both of the following sources:

(a) Not less than 25% is in liquid assets to cover the initial expenses of operating and maintaining the proposed marihuana facility, as specified in the application. As used in this subdivision, "liquid assets" include assets easily convertible to cash, including, but not limited to, cash, certificates of deposit, 401(k) plans, stocks, and bonds.

(b) Proof of the remaining capitalization to cover the initial expenses of operating and maintaining the proposed marihuana facility may include, but is not limited to, additional liquid assets as described in subdivision (a) of this subrule or equity in real property, supplies, equipment, fixtures, or any other nonliquid asset.

(4) The applicant shall provide proof that there is no lien or encumbrance, except for a mortgage encumbering the real property, on the asset provided as a source of capitalization. For purposes of this subrule, if the encumbrance is a mortgage on the real property then the applicant shall disclose the value of the equity of the real property less any mortgage.

(5) The capitalization amounts and sources must be validated by Certified Public Accountant (CPA) attested financial statements. The applicant shall disclose any of the capitalization sources that are foreign and a foreign CPA or its equivalent shall attest to the validation, and a domestic CPA shall attest to that foreign validation.

History: 2020 AACS.

R 420.11a Prelicensure investigation; proposed marihuana business inspection.

Rule 11a. (1) An applicant for a marihuana license shall submit to and pass a prelicensure physical inspection of a proposed marihuana business, prior to licensure, as determined by the agency.

(2) The agency shall establish an inspection process to confirm that the applicants and proposed marihuana businesses meet the requirements of the acts and these rules.

(3) The agency shall investigate an applicant pursuant to the acts and these rules.

(4) The agency, through its investigators, agents, auditors, or the state police shall conduct inspections and examinations of an applicant and a proposed marihuana business pursuant to the acts and these rules.

(5) An applicant shall submit to the agency proof of both of the following:

(a) A certificate of use and occupancy as required pursuant to section 13 of the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1513, and these rules. If this certificate is not available, the agency may accept alternative documentation from the building authority. The requirement of this subrule is not applicable to temporary marihuana event applicants.

(b) If applicable, a fire safety inspection as specified in these rules.

History: 2022 MR 5, Eff. Mar. 7, 2022.

R 420.12 Denial of a marihuana license; additional reasons.

Rule 12. (1) The agency may deny a license if an applicant fails to comply with the applicable act or these rules.

(2) In addition to the reasons for denial in the acts, the agency may deny a marihuana license for the following reasons:

(a) The applicant's marihuana business location plan does not fully comply with the acts or these rules.

(b) The applicant's proposed marihuana business or marihuana business is substantially different from the marihuana business location plan pursuant to R 420.8 and these rules.

(c) The agency is unable to access the proposed marihuana business for prelicensure agency inspection or the applicant denied the agency access to the proposed marihuana business.

(d) The applicant made a material misrepresentation on the application.

(e) The applicant failed to correct a deficiency within 5 days of notification by the agency in accordance with the acts and these rules.

(f) The applicant failed to provide confirmation of municipal compliance as required under R 420.5(1)(d) or (e).

(g) The applicant's proposed marihuana establishment is in a municipality that has adopted an ordinance prohibiting marihuana establishments or the proposed marihuana establishment does not comply with an ordinance consistent with section 6 of the MRTMA, MCL 333.27956.

(h) The applicant is operating or was operating a proposed marihuana business without a marihuana license.

(i) The applicant has knowingly submitted an application containing false information.

(j) The applicant has failed to pay required fees pursuant to these rules.

(k) The applicant has failed to comply with these rules and the application requirements pursuant to these rules.

(l) The applicant has been delinquent with the payment of taxes required under federal, state, or local law for 1 or more years.

(m) The applicant fails to provide notifications or reports to the agency pursuant to these rules.

(n) The applicant or anyone meeting the definition of applicant has a pattern of convictions involving dishonesty, theft, or fraud that indicate the proposed marihuana business is unlikely to be operated with honesty and integrity.

(o) For an applicant seeking licensure under the MRTMA, the applicant failed a prelicensure inspection within 60 days of submitting a complete application to the agency.

(p) For an applicant seeking licensure under the MRTMA, the applicant or anyone meeting the definition of applicant has a conviction involving distribution of a controlled substance to a minor pursuant to section 8 of the MRTMA, MCL 333.27958.

(q) For an applicant seeking licensure under the MRTMA, the applicant holds a state operating license under the MMFLA and has failed to file or is delinquent in the payment of the sales tax required under the General Sales Tax Act, 1933 PA 167, MCL 205.51 to 205.78, or the excise tax required under section 601 of the MMFLA, MCL 333.27601.

(r) For an applicant seeking licensure under the MRTMA, the applicant holds a state license and has failed to file or is delinquent in the payment of the sales tax required under the General Sales Tax Act, 1933 PA 167, MCL 205.51 to 205.78, or the excise tax required under section 13 of the MRTMA, MCL 333.27963.

(s) The applicant failed to pass the prelicensure inspection required under R 420.11a.

(t) The applicant or licensee has filed an amendment to the application for a marihuana license seeking to add an individual or entity to the application or license that is not eligible or suitable for licensure, or the amendment is not eligible for licensure as it fails to comply with the acts and these rules.

(u) The applicant or licensee was previously required to file an annual financial statement under the MMFLA and these rules and failed to file the annual financial statement.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.13 Renewal of marihuana license.

Rule 13. (1) A marihuana license is issued for a 1-year period and is renewable annually. A licensee shall apply to renew a marihuana license on a form established by the agency. The licensee shall pay the required fee upon submission of the application for renewal. The marihuana license may be renewed no more than 90 calendar days before the expiration of the marihuana license, if the licensee has submitted the renewal form required by the agency and, if applicable, the licensee has paid any additional background investigation charge assessed by the agency under these rules. The applicant shall include on the renewal form, a statement requesting renewal of the marihuana license and all of the following information:

(a) To the extent that information has changed or not been previously reported, updated personal, business, and financial information, as the agency may require, related to the eligibility of the licensee to continue to hold the marihuana license for which renewal is requested under the acts and these rules. For a licensee seeking renewal under the **MMFLA,** required information may also be related to the business probity; financial ability and experience; and responsibility or means to operate or maintain a marihuana facility of the licensee and each person required to be qualified for renewal of the license under the MMFLA. To the extent that the information has changed or has not been previously reported, updated information on the marihuana business is required.

(b) A statement under oath by the licensee that the information provided in the licensee's annual renewal form is current, complete, true, and accurate, and that the licensee has fulfilled its obligation under the acts and these rules to notify the agency of any change in information provided in its original marihuana license application and subsequent annual renewal form or forms previously filed, if applicable.

(c) For an applicant seeking renewal of a license under the MMFLA, confirmation of municipal compliance on an attestation form provided by the agency that includes all of the following:

(i) A description of any violation of an ordinance or a zoning regulation adopted pursuant to section 205 of the MMFLA, MCL 333.27205 committed by the licensee, but only if the violation relates to activities licensed under the acts or these rules.

(ii) Whether there has been a change to an ordinance or a zoning regulation adopted pursuant to section 205 of the MMFLA, MCL 333.27205since the marihuana license was issued to the licensee and a description of the change.

(iii) The date and signature of the clerk of the municipality or his or her designee.

(iv) The date and signature of the applicant.

(v) The name and address of the marihuana facility.

(vi) The license type of the marihuana facility.

(d) For an applicant seeking renewal of a license under the MRTMA, confirmation of municipal compliance on an attestation form provided by the agency that includes all of the following:

(i) A description of any violation, if applicable, of an ordinance or a zoning regulation consistent with section 6 of the MRTMA, MCL 333.27956, committed by the licensee, but only if the violation relates to activities licensed under the act or these rules.

(ii) Whether there has been a change to an ordinance or a zoning regulation consistent with section 6 of the MRTMA, MCL 333.27956, since the marihuana license was issued to the licensee and a description of the change.

(iii) The following information for the municipality where the marihuana establishment is located, including, at a minimum, all of the following:

(A) The name and address of the marihuana establishment.

(B) The license type of the marihuana establishment.

(C) The municipality where the marihuana establishment is located.

(D) The contact information for the municipality, including, at a minimum, all of the following:

(I) The name of the clerk of the municipality or his or her designee.

(II) The telephone number of the clerk of the municipality or his or her designee.

(III) The email address of the clerk of the municipality or his or her designee.

(IV) The mailing address of the clerk of the municipality or his or her designee.

(iv) Confirmation that the municipality has not adopted an ordinance prohibiting the proposed marihuana establishment.

(v) Confirmation that the applicant is in compliance with any ordinance the municipality has adopted relating to marihuana establishments within its jurisdiction, including zoning regulations.

(vi) Attestation that the applicant will report any changes that occur with municipal ordinances or zoning regulations that relate to the marihuana establishment, any municipal establishment approvals, or any violations of a municipal or zoning regulation.

(vii) The date and signature of the applicant.

(e) An attestation by the licensee that the licensee's annual renewal form provides all information and documentation required by the agency to establish that the licensee is eligible, qualified, and suitable to have its marihuana license renewed and is ready and able to continue conducting its marihuana business in compliance with the acts and these rules throughout the new 1-year time period for which the license is to be renewed.

(f) Other relevant information and documentation that the agency may require to determine the licensee's eligibility to have its marihuana license renewed under the licensing standards of the acts and these rules.

(2) Failure to comply with any of the provisions of the acts and these rules may result in the nonrenewal of a marihuana license. The agency shall not renew a marihuana license unless the

agency determines, as part of the license renewal, that each person required by the acts and these rules to meet licensing standards is eligible, qualified, and suitable under the relevant licensing standards.

(3) The licensee shall meet the requirements of the acts and any other renewal requirements set forth in these rules.

(4) The agency may refuse to renew a marihuana license and issue a notice of nonrenewal if the licensee fails to apply for renewal in accordance with section 402 of the MMFLA, MCL 333.27402, as applicable, and this rule. In addition, the agency may refuse to renew a marihuana license and issue a notice of nonrenewal if the agency determines, after reviewing the licensee's annual renewal form, that the marihuana license should not be renewed because the licensee's annual renewal form does not provide the information and documentation required by the agency to determine that the licensee is eligible, qualified, and suitable to continue to be licensed and ready and able to continue conducting its marihuana business in compliance with the acts and these rules.

(5) The agency may refuse to renew a marihuana license and issue a notice of nonrenewal if the licensee has failed to submit an annual financial statement required under the acts and these rules for the marihuana license it is renewing or for a previously held marihuana license.

(6) If a license renewal application for a license under the MMFLA is not submitted by the license expiration date, the license may be renewed within 60 days after its expiration date upon submission of the required application, payment of the required fees, and satisfaction of any renewal requirements. The licensee may continue to operate during the 60 calendar days after the license expiration date if the licensee submits the renewal application to the agency and complies with the other requirements for renewal.

(7) The agency shall send a renewal notice to the last known address of a licensee on file with the agency. The failure of a licensee to notify the agency of a change of address does not extend the expiration date of a license and may result in disciplinary action.

(8) A marihuana licensee who is served with a notice of nonrenewal may request a hearing pursuant to these rules.

(9) If the licensee does not request a hearing in writing within 21 calendar days after service of the notice of nonrenewal, the notice of nonrenewal becomes the final order of the agency.

(10) A person who has not applied for marihuana license renewal for any and all licenses that are due for renewal shall cease and desist operation and is subject to any sanctions or fines, or both, pursuant to the acts and these rules.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.14 Notification and reporting.

Rule 14. (1) Applicants have a continuing duty to provide the agency with up-to-date contact information and shall notify the agency in writing of any changes to the mailing addresses, phone numbers, electronic mail addresses, and other contact information they provide the agency.

(2) Applicants shall report to the agency any changes to the marihuana business operations that are required in the acts and these rules, as applicable.

(3) Applicants shall report to the agency any proposed material changes to the marihuana business before making a material change. Material changes include, at a minimum, the following:

(a) Change in owners, officers, members, or managers.

(b) Change of processing machinery or equipment.

(c) The addition or removal of persons named in the application or disclosed.

(d) Change in entity name.

(e) Any attempted transfer, sale, or conveyance of an interest in a marihuana license.

(f) Any change or modification to the marihuana business before or after licensure that was not preinspected, inspected, or part of the marihuana business location plan or final inspection including, at a minimum, all of the following:

(i) Operational or method changes requiring inspection under these rules.

(ii) Additions or reductions in equipment or processes at a marihuana business.

(iii) Increase or decrease in the size or capacity of the marihuana business.

(iv) Alterations of ingress or egress.

(v) Changes that impact security, fire safety, and building safety.

(4) An applicant shall notify the agency within 3 business days of becoming aware of or within 3 business days of when the applicant should have been aware of any of the following:

(a) Criminal convictions, charges, or civil judgments against an applicant in this state or any other state, federal, or foreign jurisdiction.

(b) Disciplinary action taken against an applicant by this state or any other state, federal, or foreign jurisdiction, including any pending action.

(5) The applicant shall notify the agency within 10 calendar days of the initiation or conclusion of any new judgments, lawsuits, legal proceedings, charges, or government investigations, whether initiated, pending, or concluded, that involve the applicant.

(6) The applicant shall notify the agency within 10 calendar days of receiving notification of an alleged violation of an ordinance or a zoning regulation adopted pursuant to section 205 of the MMFLA, MCL 333.27205, or section 6 of the MRTMA, MCL 333.27956, committed by the applicant, but only if the violation relates to activities licensed under the acts, the Michigan Medical Marihuana Act, and these rules.

(7) The applicant shall notify the agency and the BFS within 1 business day following the occurrence of an unwanted fire.

(8) The licensee shall notify the agency within 10 business days of the appointment of a court-appointed personal representative, guardian, conservator, receiver, or trustee of the licensee.

(9) Failure to provide notifications or reports to the agency pursuant to this rule may result in sanctions or fines, or both.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.15 Notifications of diversion, theft, loss, or criminal activity.

Rule 15. (1) Applicants shall notify the agency and local law enforcement authorities within 24 hours of becoming aware of or within 24 hours of when the applicant should have been aware of the theft or loss of any marihuana product or criminal activity at the marihuana business.

(2) Failure to notify as required under subrule (1) of this rule may result in sanctions or fines, or both.

History: 2020 AACS.

R 420.16 Inspection; investigation

Rule 16. (1) The agency shall do all of the following with respect to inspections and investigations of applicants, licensees, proposed marihuana businesses, and marihuana business operations:

(a) Oversee and conduct inspections through its investigators, agents, auditors, or the state police of proposed marihuana businesses and marihuana businesses to ensure compliance with the acts and these rules.

(b) Inspect and examine marihuana businesses and proposed marihuana businesses.

(c) Inspect, examine, and audit records of the licensee.

(2) The agency may investigate individuals employed by proposed marihuana businesses and marihuana businesses.

(3) As authorized by the acts, a licensee may not refuse the agency access to the marihuana business during the hours of operation. The agency may access the marihuana business without a warrant and without notice to the licensee during the marihuana business's hours of operation.

(4) The agency may place an administrative hold on a marihuana product and order that no sales or transfers occur during an investigation for an alleged violation or violation of the acts or these rules.

(5) The agency may inspect, examine, and audit relevant records of the licensee. If a licensee fails to cooperate with an investigation, the agency may impound, seize, assume physical control of, or summarily remove records from a proposed marihuana business or marihuana business as authorized under the acts and these rules.

(6) The agency may eject or exclude, or authorize the ejection or exclusion of, an individual from a proposed marihuana business or marihuana business if that individual violates the acts, a final order, or these rules.

(7) The agency may take any reasonable or appropriate action to enforce the acts and these rules.

(8) This rule does not limit the application of any other remedies or sanctions that are available through local, state, and federal laws, the acts, and these rules.

(9) As used in this rule, “record” means books, ledgers, documents, writings, photocopies, correspondence, electronic storage media, electronically stored records, money receptacles, equipment in which records are stored, including data or information in the statewide monitoring system, or any other document that is used for recording information.

History: 2020 AACS.

R 420.17 Stacked license.

Rule 17. (1) A licensee holding a license as a grower under the medical marihuana facilities licensing act, or a marihuana grower under the Michigan regulation and taxation of marihuana act, or both, may apply to stack class C licenses at a marihuana business specified in the marihuana license application. The licensee shall pay a separate initial licensure fee or regulatory assessment, as applicable, for each marihuana license issued and stacked and may be subject to additional fees under these rules.

(2) A licensee that has been issued stacked licenses is subject to all the requirements of the acts and these rules.

History: 2020 AACS.

R 420.18 Changes to licensed marihuana business.

Rule 18. (1) Any change or modification to the marihuana business after licensure is governed by the standards and procedures set forth in these rules and any regulations adopted pursuant to the acts. Any material change or modification to the marihuana business must be approved by the agency before the change or modification is made.

(2) Any change of a location of a marihuana business after licensure requires notification to the agency prior to the change of location, must be approved by the agency, requires a new marihuana license application under these rules, and may include, but is not limited to, all of the following:

(a) Additional application fees.

(b) Additional inspections by the agency or BFS.

(c) Initial licensure fees or regulatory assessment, as applicable, or both.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.19 Communities disproportionately impacted by marihuana prohibition.

Rule 19. (1) Pursuant to section 8 of the MRTMA, MCL 333.27958, the agency shall establish a plan that promotes and encourages participation in the marihuana industry by people from communities that have been disproportionately impacted by marihuana prohibition and enforcement and to positively impact those communities.

(2) The agency shall publish all of the following information about the plan:

(a) The criteria used to select communities that have been disproportionately impacted by marihuana prohibition and enforcement.

(b) Based on the selection criteria, a list of the communities that have been disproportionately impacted by marihuana prohibition and enforcement.

(c) The requirements persons in those communities must meet to utilize services and resources offered through the plan.

(d) The services and resources that are available to those communities and qualifying persons residing in and planning to operate a marihuana establishment in those communities selected in subdivision (b) of this subrule.

(e) Specific goals and objectives for the plan.

(3) The agency shall collect data to measure its progress towards achieving the specific goals and objectives outlined in subrule (2)(e) of this rule.

(4) The agency shall publish a list of services and resources offered through the plan, which must include, but not be limited to, all of the following:

(a) Education and outreach to the communities and potential applicants from the community.

(b) The waiver or reduction of fees for qualified applicants from the communities.

(c) Increased assistance with the application process for applicants from these communities.

(d) Coordination of communities', applicants', and licensees' utilization of resources that will allow participation in the marihuana industry.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.20 Financial statements.

Rule 20. (1) Each licensee under the MRTMA shall transmit to the agency financial statements of the licensee's total operations. The financial statements shall be reviewed by a certified public accountant in a manner and form prescribed by the agency. The certified public accountant must

be licensed in this state under article 7 of the occupational code, 1980 PA 299, MCL 339.720 to 339.736. The compensation for the certified public accountant must be paid directly by the licensee to the certified public accountant. The agency shall issue an advisory bulletin to instruct licensees on the time and manner in which to submit the financial statements. Financial statements must be prepared so they include all required information for each license held by the licensee.

(2) A marihuana educational research licensee is not required to file an annual financial statement.

PART 2. SPECIAL LICENSES UNDER THE MICHIGAN REGULATION AND TAXATION OF MARIHUANA ACT

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

PART 2. SPECIAL LICENSES UNDER THE MICHIGAN REGULATION AND TAXATION OF MARIHUANA ACT

R 420.21 Special licenses; eligibility.

Rule 21. (1) A person may apply to the agency for a special license as described under section 8 of the MRTMA, MCL 333.27958, and issued pursuant to section 9 of the act, MCL 333.27959, and these rules. A person may apply to the agency for a special license in any of the following categories:

(a) Designated consumption establishment license. A designated consumption establishment license is valid for 1 year.

(b) Excess marihuana grower license. An excess marihuana grower license is valid for 1 year.

(c) Marihuana event organizer license. A marihuana event organizer license is valid for 1 year.

(d) Temporary marihuana event license. A temporary marihuana event license is valid for a minimum of 1 day and ends on the date specified on the state license.

(e) Marihuana educational research license. A marihuana educational research license is valid for 1 year.

(f) A class A marihuana microbusiness license. A class A marihuana microbusiness license is valid for 1 year.

(2) An applicant shall meet the requirements of the MRTMA and these rules to be eligible for a special license.

(3) A person who allows consumption of marihuana products on the premises of a non-residential location and charges a fee for entry, sells goods or services while individuals are consuming on the premises, or requires membership for entry shall acquire a designated consumption establishment or temporary marihuana event license.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.22 Designated consumption establishment license.

Rule 22. (1) An applicant for a designated consumption establishment license is subject to and shall meet the requirements of the Michigan regulation and taxation of marihuana act and these rules.

(2) A person may apply for a designated consumption establishment license on the form created by the agency accompanied by the nonrefundable application fee as prescribed in these rules. An

application for a designated consumption establishment license must be made under oath on a form provided by the agency. A complete application for a designated consumption establishment license must contain the information required in these rules and information regarding the designated consumption establishment including, but not limited to, all of the following:

(a) A designated consumption establishment plan for the proposed consumption establishment. Upon the request of the agency, an applicant or licensee may be required to submit a revised designated consumption establishment plan. The plan must include a diagram of the designated consumption establishment including, but not limited to, all of the following:

(i) The proposed establishment's size and dimensions.

(ii) Specifications of the designated consumption establishment.

(iii) Physical address.

(iv) Location of common entryways, doorways, or passageways.

(v) Means of public entry or exit.

(vi) An indication of the distinct areas or structures for separate marihuana establishments at the same location as provided in these rules.

(b) A detailed floor plan and layout that includes all of the following:

(i) Dimensions of the consumption establishment including interior and exterior rooms.

(ii) Number of rooms.

(iii) Dividing structures.

(iv) Fire walls.

(v) Entrances and exits.

(vi) Locations of hazardous material storage, if applicable.

(vii) Means of egress.

(c) Construction details for structures and fire-rated construction for required walls.

(d) Building structure information, including but not limited to, new, pre-existing, freestanding, or fixed.

(e) Building type information, including, but not limited to, commercial, warehouse, industrial, retail, converted property, house, building, mercantile building, pole barn, greenhouse, laboratory, or center.

(f) Zoning classification and zoning information.

(g) If the proposed designated consumption establishment is in a location that contains multiple tenants, any applicable occupancy restrictions.

(h) A business plan that includes a description of the proposed hours of operation.

(i) Proof of possession of the premises where the proposed designated consumption establishment will be located and, if the premises are leased, written permission from the owner of the premises approving the applicant's use of the designated consumption establishment for marihuana consumption.

(j) A responsible operations plan that includes a detailed explanation of how employees will monitor and prevent over-intoxication, underage access to the designated consumption establishment, the illegal sale or distribution of marihuana or marihuana products within the consumption establishment, and any other potential criminal activity on the premises.

(k) A documented employee training that addresses all components of the responsible operations plan.

(l) A marihuana product destruction and waste management plan that meets the requirements of these rules, as applicable, for destroying and disposing of marihuana waste left at the marihuana establishment.

(m) Any other information required by the agency if not inconsistent with the Michigan regulation and taxation of marihuana act and these rules.

(3) The agency may provide a copy of the marihuana establishment plan to the BFS, local fire department, building officials, the Michigan state police, and local law enforcement for use in pre-incident review and planning.

(4) An applicant shall pay the fees required under these rules.

(5) An applicant is subject to the prelicensure investigation and proposed establishment inspection required under these rules.

(6) An applicant is subject to the proof of financial responsibility and insurance requirements under these rules.

(7) A designated consumption establishment shall have the following characteristics:

(a) A smoke-free area for employees to monitor the marihuana consumption area.

(b) A ventilation system that directs air from the marihuana consumption area to the outside of the building through a filtration system sufficient to remove visible smoke, consistent with all applicable building codes and ordinances, and adequate to eliminate odor at the property line, if consumption by inhalation is permitted.

(c) A location physically separated from areas where smoking is prohibited and where smoke does not infiltrate into nonsmoking areas or buildings.

(8) The agency may determine an applicant is ineligible or deny an application for the reasons specified in these rules, as applicable.

History: 2020 AACS.

R 420.23 Excess marihuana grower license.

Rule 23. (1) An applicant for an excess marihuana grower license is subject to and shall meet the requirements of the MRTMA and these rules.

(2) An excess marihuana grower license authorizes sale of marihuana, other than seeds, seedlings, tissue cultures, immature plants, and cuttings, to a marihuana processor or marihuana retailer.

(3) An excess marihuana grower license may be issued only to a person who holds 5 stacked class C marihuana grower licenses issued by the agency under the MRTMA and at least 2 grower class C licenses issued by the agency under the MMFLA.

(4) A person may apply for an excess marihuana grower license on the form created by the agency accompanied by the nonrefundable application fee as prescribed in these rules. An application for an excess marihuana grower license must be made under oath on a form provided by the agency and must contain information as prescribed by the agency.

(5) An applicant for an excess marihuana grower license shall pay applicable fees required under these rules.

(6) The agency may determine an applicant is ineligible or deny an application for the reasons specified in these rules.

(7) The agency shall set the total marihuana plant count for an excess marihuana grower license in increments of 2,000 marihuana plants not in excess of the total marihuana plants permitted under grower class C licenses held under the MMFLA.

(8) Payment of the initial licensure fee must be received prior to issuance of the state license. In determining the initial licensure fee for an excess marihuana grower license, the initial licensure fee of a class C marihuana grower license is assessed on the excess marihuana grower license at every 2,000 marihuana plant increment authorized by the state license.

(9) An excess marihuana grower licensee is subject to all requirements for a marihuana grower as provided for in the MRTMA and these rules, as applicable.

(10) An applicant shall pay the initial licensure fee for an excess grower license within 10 calendar days of approval or within 90 calendar days of submitting a complete application, whichever date is first.

(11) An applicant for an excess grower license is not required to pay the application fee under these rules.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.24 Marihuana event organizer license.

Rule 24. (1) A marihuana event organizer is not authorized to engage in the operations of a marihuana establishment licensee without first obtaining the appropriate licenses.

(2) A person may apply for a marihuana event organizer license on the form created by the agency accompanied by the application fee as prescribed in these rules. An application for a marihuana event organizer license shall be made under oath on a form provided by the agency and shall contain information as prescribed by the agency.

(3) An applicant for a marihuana event organizer license is subject to and shall meet the requirements of these rules, as applicable.

(4) An applicant for a marihuana event organizer license shall pay the nonrefundable application fee and any other fees required under these rules.

(5) The agency may determine an applicant is ineligible or deny an application for the reasons specified in these rules, as applicable.

History: 2020 AACS.

R 420.25 Temporary marihuana event license; application; operations.

Rule 25. (1) A temporary marihuana event license may be issued only to a person who holds a marihuana event organizer license issued by the agency.

(2) Violations of the requirements applicable to temporary marihuana events may result in disciplinary action against the marihuana event organizer license or any other licenses held by a licensee participating in the temporary marihuana event and responsible for a violation of the MRTMA or these rules.

(3) A temporary marihuana event license may be issued only for a single day or up to 7 consecutive days. A temporary marihuana event license may not be issued for more than 7 days.

(4) An application for a temporary marihuana event license must be submitted to the agency not less than 90 calendar days before the first day of the temporary marihuana event.

(5) A temporary marihuana event may be held only at a venue expressly approved by a municipality for the purpose of holding a temporary marihuana event.

(6) A temporary marihuana event may be held only if the applicant is expressly approved by a municipality to hold a temporary marihuana event where sales to, or consumption of marihuana by, persons 21 years of age or older will occur.

(7) An application for a temporary marihuana event license must be made under oath on a form provided by the agency and must contain information as prescribed by the agency, including, at a minimum, all of the following:

(a) The name of the applicant. Applicants who are individuals shall provide both the first and last name of the individual. Applicants that are business entities shall provide the legal business name of the applicant.

(b) The marihuana event organizer license number and license number of any other marihuana establishment license held by the applicant.

(c) The address of the location where the temporary marihuana event will be held.

(d) The name of the temporary marihuana event.

(e) A diagram of the physical layout of the temporary marihuana event that clearly indicates each of the following:

(i) Where the temporary marihuana event will take place on the location grounds.

(ii) All entrances and exits that will be used by participants during the event.

(iii) All marihuana consumption areas.

(iv) All marihuana retail areas where marihuana products will be sold.

(v) All areas where marihuana waste will be stored.

(vi) All areas where marihuana products will be stored.

(vii) The specific location of each marihuana retailer or marihuana microbusiness or class A marihuana microbusiness licensee who will be participating in the event. Each marihuana retailer or marihuana microbusiness or class A marihuana microbusiness licensee participating in the event must be identified with an assigned temporary marihuana event location number.

(f) The dates and hours of operation for the proposed temporary marihuana event. A temporary marihuana event license is required for any date in which the applicant engages in onsite marihuana product sales or allows onsite marihuana product consumption.

(g) Contact information for the designated primary contact person for the temporary marihuana event license, including the individual's name, title, address, phone number, and email address.

(h) Contact information for the designated contact person or persons who must be onsite at the event, and reachable by telephone at all times that the event is occurring.

(i) For an applicant seeking licensure for a temporary marihuana event, confirmation of municipal compliance on an attestation form provided by the agency that includes all of the following:

(i) The name and address of the proposed temporary marihuana event.

(ii) The municipality where the proposed temporary marihuana event is located.

(iii) The contact information for the municipality including, at a minimum, all of the following:

(A) The name of the clerk of the municipality or his or her designee.

(B) The telephone number of the clerk of the municipality or his or her designee.

(C) The email address of the clerk of the municipality or his or her designee.

(D) The mailing address of the clerk of the municipality or his or her designee.

(iv) Confirmation that the municipality has not adopted an ordinance prohibiting the proposed temporary marihuana event.

(v) Confirmation that the applicant is in compliance with any ordinance the municipality has adopted relating to marihuana establishments within its jurisdiction, including zoning regulations.

(vi) Attestation that the applicant will report any changes that occur with municipal ordinances or zoning regulations that relate to the proposed temporary marihuana event, any municipal approvals, or any violations of a municipal or zoning regulation.

(vii) Attestation by the applicant describing if the applicant will engage in onsite marihuana sales to, and allow onsite consumption by, person 21 years of age or older at the temporary marihuana event.

(viii) The date and signature of the applicant.

(j) A list of all licensees and employees who will be providing onsite sales of marihuana products at the temporary marihuana event. If the list of licensees and employees participating in the temporary marihuana event changes after the application is submitted or after the temporary marihuana event license is issued, the applicant shall submit an updated list and an updated diagram to the agency not less than 72 hours before the event. Licensees not on the list submitted to the agency may not participate in the temporary marihuana event.

(k) A responsible operations plan that includes a detailed explanation of how employees will monitor and prevent over-intoxication, underage access to the designated consumption establishment, the illegal sale or distribution of marihuana or marihuana products within the consumption establishment, and any other potential criminal activity on the premises.

(8) An applicant for a temporary marihuana event shall pay all required fees before the agency issues a temporary marihuana event license.

(**9**) The licensed marihuana event organizer shall hire or contract for licensed security personnel to provide security services at the licensed temporary marihuana event. All security personnel hired or contracted for by the licensee shall be at least 21 years of age, and be present on the licensed event premises at all times marihuana products are available for sale or marihuana consumption is allowed on the licensed event premises. The security personnel shall not engage in the consumption of marihuana products before or during the event.

(10) A licensed marihuana event organizer shall maintain a clearly legible sign, not less than 7 by 11 inches in size reading, “No Persons Under 21 Allowed” at or near each public entrance to any area where the sale or consumption of marihuana products is allowed. The lettering of the sign shall be not less than 1 inch in height.

(11) The marihuana event organizer licensee shall ensure that access to the event is restricted to persons 21 years of age or older and ensure that marihuana sales or consumption is not visible from any public place or non-age-restricted area.

(12) The marihuana event organizer licensee, who holds the temporary marihuana event license, is responsible for ensuring that all rules and requirements for the onsite consumption of marihuana products are followed.

(13) The marihuana event organizer licensee shall ensure that all marihuana waste generated at a temporary marihuana event is collected and disposed of in accordance with the requirements of these rules, as applicable.

(14) A licensed marihuana event organizer and all other licensees participating in a temporary marihuana event are required to comply with all other applicable requirements in the MRTMA and these rules and any municipal ordinances.

(15) The agency may require the marihuana event organizer and all participants to cease operations without delay if in the opinion of the agency or law enforcement it is necessary to protect the immediate public health and safety of the people of this state. Upon notification from the agency that the event is to cease operations, the marihuana event organizer shall immediately stop the event and all participants must be removed from the premises within the time frame provided by the agency.

(16) Upon notification from the agency, the marihuana event organizer shall immediately expel from the event any person selling marihuana products without a marihuana retailer, marihuana microbusiness, or class A marihuana microbusiness license issued by the agency. The marihuana event organizer or his or her representative shall remain with the person being expelled from the premises at all times until he or she vacates the premises. If the person does not vacate the premises,

the agency may inform the marihuana event organizer that the event must cease operations. Upon notification from the agency that the event is to cease operations, the marihuana event organizer shall immediately stop the event and all participants must be removed from the premises within the time frame provided by the agency.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.26 Temporary marihuana event fee.

Rule 26. (1) Each marihuana event organizer licensed to hold a temporary marihuana event in this state shall pay an initial licensure fee that consists of both of the following:

(a) For temporary marihuana events that do not include the sale of marihuana products, a $500.00 fee for each day of the scheduled event to cover the agency's enforcement and compliance costs.

(b) For temporary marihuana events that include the sale of marihuana products:

(i) A $500.00 fee for each licensee authorized to sell marihuana product at the event to cover the agency's enforcement and compliance costs.

(ii) A $500.00 fee for each day of the temporary marihuana event to cover the agency's enforcement and compliance costs.

(2) If a licensee scheduled to attend an event withdraws from the event prior to the first day of the event, the marihuana event organizer may request a refund for that portion of the fees paid to the agency to cover the enforcement and compliance costs for that licensee.

(3) A marihuana event organizer applicant is not required to pay an application fee.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.27 Temporary marihuana event sales.

Rule 27. (1) A marihuana event organizer licensee shall ensure that access to the area where marihuana sales are allowed is restricted to persons 21 years of age or older.

(2) Only persons 21 years of age or older may purchase and consume marihuana products at a temporary marihuana event. Prior to selling marihuana products to a customer, the licensee making the sale shall confirm, using valid identification as specified in the MRTMA and these rules, the age and identity of the customer.

(3) All sales of marihuana products at a temporary marihuana event shall occur in a retail area as designated in the premises diagram required in these rules.

(4) Each sale at a temporary marihuana event must be performed by a licensed marihuana retailer, a marihuana microbusiness, or a class A marihuana microbusiness that is authorized to sell marihuana products to customers. The marihuana event organizer may also sell marihuana products at the temporary marihuana event if the marihuana event organizer holds a separate state license as a marihuana retailer, a marihuana microbusiness, or a class A marihuana microbusiness.

(5) Licensed marihuana retailers**,** marihuana microbusinesses, or class A marihuana microbusinesses shall conduct sales activities only within their specifically assigned area, identified in the diagram of the physical layout of the temporary marihuana event.

(6) Mobile sales activities via wagon, cart, or similar means are prohibited at the temporary marihuana event site.

(7) Licensed marihuana retailers**,** marihuana microbusinesses**,** or class A marihuana microbusinesses shall prominently display their temporary marihuana event location number and state license number within plain sight of the public.

(8) All sales at a temporary marihuana event must occur on the dates stated on the state license and must occur at the location stated on the state license. All onsite sales of marihuana products must comply with the hours of operation requirements in these rules.

(9) The marihuana products sold onsite at a temporary marihuana event must be transported to the site of the temporary marihuana event by a licensed secure transporter in compliance with the Michigan regulation and taxation of marihuana act and these rules. A licensed transporter is not required if less than 15 ounces of marihuana or 60 grams of concentrate is transported at 1 time.

(10) Except small amounts of products used for display, all marihuana products for sale at a temporary marihuana event must be stored in a secure, locked container that is not accessible to the public. Marihuana products stored by a licensee at a temporary marihuana event must not be left unattended.

(11) All marihuana products made available for sale at a temporary marihuana event by a licensee must comply with all requirements of the MRTMA and these rules for the sale and tracking of marihuana products. This includes, at a minimum, all of the following:

(a) Identifying marihuana product from licensees' inventory at the marihuana establishment that will be transported for sale at the event using a marihuana secure transporter or an agent of the licensee to the temporary marihuana event.

(b) Tracking in the statewide monitoring system any sales of marihuana product at the event in accordance with the requirements of these rules.

(c) Tracking in the statewide monitoring system any marihuana product that is not sold at the event and is returned to the marihuana establishment's inventory at its permanent location. If more than 15 ounces of marihuana or 60 grams of concentrate is transported at 1 time, it must be transported using a marihuana secure transporter.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.27a Marihuana educational research license.

Rule 27a. (1) A marihuana educational research license authorizes a licensee to do all of the following:

Obtain marihuana from a marihuana establishment.

Produce marihuana products.

Perform research on marihuana and marihuana products.

Dispose of marihuana and marihuana products.

(2) A licensee holding a marihuana educational research license shall apply for the necessary registration from the United States Drug Enforcement Administration (DEA). A licensee must provide proof of registration to the agency before engaging in any licensed activity.

(3) An application for a marihuana educational research license must be made under oath on a form provided by the agency. A complete application for a marihuana educational research license must contain the information required in these rules and information regarding the marihuana educational research license including, at a minimum, all of the following:

(a) A research plan including, at a minimum, all of the following:

(i) A written plan for documenting all individuals who will have access to the location and marihuana or marihuana products.

(ii) Detailed description and documentation of affiliation with a degree or certificate program offered by an institution of higher learning accredited by the Higher Learning Commission.

(iii) A brief description of the research that will be conducted.

(iv) A written plan to ensure secure delivery and receipt of marihuana at the licensed location.

(v) A written plan to ensure the safe storage of marihuana at the licensed location.

(vi) A written plan for the tracking of marihuana quantities at the licensed location.

(vii) A written plan for the disposal of marihuana after research.

(viii) A floor plan of the location.

(b) For an applicant seeking licensure for a marihuana educational research license, confirmation of municipal compliance on an attestation form provided by the agency that includes all of the following:

(i) The name and address of the proposed marihuana educational research license.

(ii) The municipality where the proposed marihuana educational research license is located.

(iii) The contact information for the municipality including, at a minimum, all of the following:

(A) The name of the clerk of the municipality or his or her designee.

(B) The telephone number of the clerk of the municipality or his or her designee.

(C) The email address of the clerk of the municipality or his or her designee.

(D) The mailing address of the clerk of the municipality or his or her designee.

(iv) Confirmation that the municipality has not adopted an ordinance prohibiting the proposed marihuana educational research license.

(v) Confirmation that the applicant is in compliance with any ordinance the municipality has adopted relating to marihuana establishments within its jurisdiction, including zoning regulations.

(vi) Attestation that the applicant will report any changes that occur with municipal ordinances or zoning regulations that relate to the proposed marihuana educational research license, any municipal approvals, or any violations of a municipal or zoning regulation.

(vii) The date and signature of the applicant.

(c) A certificate of use and occupancy pursuant to R 420.208 in which the authorized activities of the marihuana educational research license are to be conducted.

(d) Any other documents required by the agency that are not inconsistent with the acts and these rules.

(4) An applicant for a marihuana educational research license shall provide notification and report to the agency in writing within 24 hours when he or she became aware of or should have become aware of all of the following:

(a) Loss of institutional affiliation.

(b) Loss of institutional accreditation.

(c) Loss or restriction of DEA registration.

(d) Theft, loss, diversion, or criminal activity at the licensed location.

(5) A marihuana educational research licensee shall maintain and provide upon request of the agency a written schedule for disposal of marihuana and marihuana products after it has concluded research on that item.

(6) A marihuana educational research licensee shall accurately enter all transactions, current inventory, and other information into the statewide monitoring system as required by the agency.

(7) A marihuana educational research licensee shall not sell or transfer marihuana or marihuana products to a marihuana establishment or to a marihuana customer.

(8) A marihuana educational research licensee shall designate and enter into the statewide monitoring system administrative users pursuant to R 420.602(2)(b) and (c) as required by the agency.

(9) A marihuana educational research licensee shall prohibit marihuana or marihuana products grown, produced, or obtained under the license to be consumed or sampled on the licensed premises unless the licensee is approved to engage in a research study under R 420.510(11) or the licensee obtains express written permission from the agency.

History: 2022 MR 5, Eff. Mar. 7, 2022.

R 420.27b Class A marihuana microbusiness.

Rule 27b. (1) An applicant for a class A marihuana microbusiness license is subject to and shall meet the requirements of the MRTMA and these rules.

(2) An application for a class A marihuana microbusiness license must be made under oath on a form provided by the agency and must contain information as prescribed by the agency.

(3) An applicant for a class A marihuana microbusiness license shall pay applicable fees as required under these rules.

(4) The agency may determine that an applicant is ineligible for a license or may deny an application for the reasons specified in these rules, as applicable.

(5) Payment of the initial licensure fee must be received prior to issuance of the state license.

(6) A class A marihuana microbusiness licensee is subject to all requirements for a marihuana microbusiness as provided for in the MRTMA and these rules, unless modified in these rules.

(7) An applicant shall pay the initial licensure fee for a class A marihuana microbusiness license within 10 calendar days of approval or within 90 calendar days of submitting a complete application, whichever date is first.

History: 2022 MR 5, Eff. Mar. 7, 2022.

R 420.28 Renewal; notifications; inspections and investigations; penalties; sanctions; fines; sale or transfer.

Rule 28. (1) A designated consumption establishment**,** class A marihuana microbusiness, marihuana educational research license, and marihuana event organizer license are issued for a 1-year period and may be renewed. An applicant for renewal must meet the requirements, as applicable, and apply in the manner prescribed in these rules.

(2) A designated consumption establishment**,** class A marihuana microbusiness, marihuana educational research license, and marihuana event organizer applicant or licensee are subject to the notification and reporting requirements specified in these rules**,** as applicable.

(3) A designated consumption establishment**,** class A marihuana microbusiness, marihuana educational research license, or marihuana event organizer licensee or licensee participating in a temporary marihuana event shall comply with the notification requirements for theft, loss, or criminal activity pertaining to marihuana product under these rules, as applicable.

(4) An applicant for or a licensed designated consumption establishment**,** class A marihuana microbusiness, marihuana educational research license, or marihuana event organizer are subject to the inspections and investigations specified in these rules, as applicable.

(5) An applicant for or a licensed designated consumption establishment, class A marihuana microbusiness, marihuana educational research license, or marihuana event organizer are subject to these rules regarding violations, sanctions, and fines.

(6) A licensee selling marihuana products at a temporary marihuana event shall comply with the requirements of these rules regarding the sale or transfer of marihuana.

(7) A licensee selling marihuana products at a temporary marihuana event shall comply with the requirements of these rules regarding purchasing limits in a single transaction.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.29 Severability.

Rule 29. If any rule or subrule of these rules, in whole or in part, is found to be invalid by a court of competent jurisdiction, such decision will not affect the validity of the remaining portion of these rules.

History: 2020 AACS.

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

MARIJUANA REGULATORY AGENCY

MARIHUANA LICENSEES

(By authority conferred on the executive director of the marijuana regulatory agency by section 206 of the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27206, sections 7 and 8 of the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27957 and 333.27958, and Executive Reorganization Order No. 2019-2, MCL 333.27001)

R 420.101 Definitions.

Rule 1. (1) As used in these rules:

(a) "Acts" refers to the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801, and the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27951 to 333.27967, when applicable.

(b) "Agency" means the marijuana regulatory agency.

(c) "Another party" or "other party" means an individual or company with which a licensee contracts to use the individual's or company's intellectual property or to utilize management or other services provided by the individual or company.

(d) "Applicant" means a person who applies for a marihuana license, subject to paragraphs (i) and (ii) of this subdivision:

(i) For purposes of this definition, an applicant includes a managerial employee of the applicant, a person holding a direct or indirect ownership interest of more than 10% in the applicant, and the following for each type of applicant:

(A) For an individual or sole proprietorship: the proprietor and spouse.

(B) For a partnership and limited liability partnership: all partners and their spouses.

(C) For a limited partnership and limited liability limited partnership: all general and limited partners, not including a limited partner holding a direct or indirect ownership interest of 10% or less who does not exercise control over or participate in the management of the partnership, and their spouses.

(D) For a limited liability company: all members and managers, not including a member holding a direct or indirect ownership interest of 10% or less who does not exercise control over or participate in the management of the company, and their spouses.

(E) For a privately held corporation: all corporate officers or persons with equivalent titles and their spouses, all directors and their spouses, all stockholders, not including those holding a direct or indirect ownership interest of 10% or less, and their spouses.

(F) For a publicly held corporation: all corporate officers or persons with equivalent titles and their spouses, all directors and their spouses, all stockholders, not including those holding a direct or indirect ownership interest of 10% or less, and their spouses.

(G) For a multilevel ownership enterprise: any entity or person that receives or has the right to receive more than 10% of the gross or net profit from the enterprise during any full or partial calendar or fiscal year.

(H) For a nonprofit corporation: all individuals and entities with membership or shareholder rights in accordance with the articles of incorporation or the bylaws and their spouses.

(I) For a trust: trustees, any individual or body able to control and direct the affairs of the trust, and any beneficiary who receives or has the right to receive more than 10% of the gross or net profit of the trust during any full or partial calendar or fiscal year and their spouses.

(ii) For purposes of this definition, an applicant does not include:

(A) A person who provides financing to an applicant or licensee under a bona fide financing agreement at a reasonable interest rate unless the person exercises control over or participates in the management of the marihuana business.

(B) A franchisor who grants a franchise to an applicant, if the franchisor does not have the right to receive royalties based upon the sale of marihuana or marihuana-infused products by the applicant who is a franchisee. Nothing in this subrule shall be construed to preclude a franchisor from charging an applicant who is a franchisee a fixed fee. As used in this definition, the terms "franchise," "franchisor," and "franchisee" have the meanings set forth in section 2 of the franchise investment law, 1974 PA 269, MCL 445.1502.

(C) A person receiving reasonable payment for rent on a fixed basis under a bona fide lease or rental obligation unless the person exercises control over or participates in the management of the marihuana business.

(D) A person receiving reasonable payment under a licensing agreement or contract approved by the agency concerning the licensing of intellectual property including, but not limited to, brands and recipes.

(E) A person who receives a percentage of profits as an employee if the employee does not meet the definition of "managerial employee" and the employee does not receive more than 10% of the gross or net profit from the licensee during any full or partial calendar or fiscal year.

(F) A person who receives a bonus as an employee if the employee is on a fixed wage or salary and the bonus is not more than 25% of the employee's pre-bonus annual compensation or if the bonus is based upon a written incentive/bonus program that is not out of the ordinary for the services rendered.

(e) "Clone" means a replication of a single parent plant through vegetative propagation.

(f) "Common ownership" means 2 or more state licenses or 2 or more equivalent licenses held by 1 person under the Michigan Regulation and Taxation of Marihuana Act.

(g) "Employee" means a person performing work or service for compensation.– "Employee" does not include individuals providing trade or professional services who are not normally engaged in the operation of a marihuana business.

(h) "Immature plant" means a nonflowering marihuana plant that is no taller than 8 inches from the growing or cultivating medium and no wider than 8 inches, produced from a cutting, clipping, tissue culture, or seedling, and that is in a growing or cultivating medium or in a growing or cultivating container.

(i) "Industrial hemp" means that term as defined in section 3 of the Michigan regulation and taxation of marihuana act, 2018 IL 1, MCL 333.27953.

(j) "Industrial hemp research and development act" means the industrial hemp research and development act, 2014 PA 547, MCL 286.841 to 286.859.

(k) "Intellectual property" means all original data, findings, or other products of the mind or intellect commonly associated with claims, interests, and rights that are protected under trade secret, patent, trademark, copyright, or unfair competition law and includes brands or recipes.

(l) "Licensing agreement" means any understanding or contract concerning the licensing of intellectual property related to marihuana products between a licensee and another party.

(m) “Management agreement” means any understanding or contract between a licensee and another party for the provision of management or other services that would allow the other party to exercise control over or participate in the management of the licensee or to receive more than 10% of the gross or net profit from the licensee during any full or partial calendar or fiscal year. A management agreement does not include an agreement for the reasonable payment of rent on a fixed basis under a bona fide lease or rental obligation unless the person exercises control over or participates in the management of the marihuana business.

(n) “Managerial employee” means those employees who have the ability to control and direct the affairs of the marihuana business or have the ability to make policy concerning the marihuana business, or both.

(o) “Marihuana business” means a marihuana facility under the medical marihuana facilities licensing act, or a marihuana establishment under the Michigan Regulation and Taxation of Marihuana Act, or both.

(p) “Marihuana establishment” means a marihuana grower, marihuana safety compliance facility, marihuana processor, marihuana microbusiness, marihuana retailer, marihuana secure transporter, or any other type of marihuana-related business licensed by the agency under the Michigan Regulation and Taxation of Marihuana Act.

(q) “Marihuana facility” means a location at which a licensee is licensed to operate under the medical marihuana facilities licensing act.

(r) “Marihuana license” means a state operating license issued under the medical marihuana facilities licensing act, or a state license issued under the Michigan Regulation and Taxation of Marihuana Act, or both.

(s) “Marihuana product” means marihuana or a marihuana-infused product, or both, as those terms are defined in the applicable act unless otherwise provided for in these rules.

(t) “Mature plant” means a flowering or nonflowering marihuana plant that has taken root and is taller than 8 inches from the growing or cultivating medium or wider than 8 inches, produced from a cutting, clipping, tissue culture, or seedling, and that is in a growing or cultivating medium or in a growing or cultivating container.

(u) “Medical marihuana facilities licensing act” or “MMFLA” means the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801.

(v) “Michigan Regulation and Taxation of Marihuana Act” or “MRTMA” means the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27951 to 333.27967.

(w) “Marihuana tracking act” means the marihuana tracking act, 2016 PA 282, MCL 333.27901 to 333.27904.

(x) “Parties” means a licensee and another party pursuant to a licensing or management agreement.

(y) “These rules” means the administrative rules promulgated by the agency under the authority of the medical marihuana facilities licensing act, the marihuana tracking act, the Michigan Regulation and Taxation of Marihuana Act, and Executive Reorganization Order No. 2019-2, MCL 333.27001.

(z) “Same location” means separate marihuana licenses that are issued to multiple marihuana businesses that are authorized to operate at a single property but with separate business suites, partitions, or addresses.

(2) Terms defined in the acts have the same meanings when used in these rules unless otherwise indicated.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

PART 1. LICENSEES UNDER THE MICHIGAN REGULATION AND TAXATION OF MARIHUANA ACT

R 420.102 Marihuana grower license.

Rule 2. (1) A marihuana grower license authorizes the marihuana grower to cultivate not more than the following number of marihuana plants under the indicated license class for each marihuana grower license the marihuana grower holds in that class:

(a) Class A – 100 marihuana plants.

(b) Class B – 500 marihuana plants.

(c) Class C – 2,000 marihuana plants.

(2) For the purposes of this rule, only mature marihuana plants are included in the plant count in subrule (1) of this rule.

(3) Except as otherwise provided in the MRTMA and these rules, a marihuana grower license authorizes sale of marihuana and marihuana plants to a marihuana grower only by means of a marihuana secure transporter. A marihuana grower license authorizes the sale or transfer of seeds, seedlings, tissue cultures, or immature plants to a marihuana grower from another marihuana grower without using a marihuana secure transporter.

(4) A marihuana grower license authorizes a marihuana grower to transfer marihuana without using a marihuana secure transporter to a marihuana processor or marihuana retailer if both of the following are met:

(a) The marihuana processor or marihuana retailer occupies the same location as the marihuana grower and the marihuana is transferred using only private real property without accessing public roadways.

(b) The marihuana grower enters each transfer into the statewide monitoring system.

(5) A marihuana grower license authorizes sale of marihuana, other than seeds, seedlings, tissue cultures, immature plants, and cuttings, to a marihuana processor or marihuana retailer.

(6) Except as otherwise provided in the MRTMA, subrules (3) and (4) of this rule, and R 420.304, a marihuana grower license authorizes the marihuana grower to transfer marihuana only by means of a marihuana secure transporter.

(7) A marihuana grower must accurately enter all transactions, current inventory, and other information into the statewide monitoring system as required in these rules.

(8) A marihuana grower license does not authorize the marihuana grower to operate in an area unless the area is zoned for industrial or agricultural uses or otherwise meets the requirements established in section 9(3)(c) of the MRTMA, MCL 333.27959~~(c).~~

(9) A marihuana grower may purchase or accept the transfer of marihuana seeds, tissue cultures, and clones that do not meet the definition of marihuana plant in these rules at any time from another grower licensed under the acts.

(10) A class A marihuana grower may accept the transfer of marihuana plants only once upon licensure from a registered primary caregiver if the registered primary caregiver was an applicant for that class A marihuana grower license.

(11) A marihuana grower licensee is required to comply with the requirements of the MRTMA and these rules.

(12) A marihuana grower may not purchase or accept the transfer of a mature plant from an individual, registered qualifying patient, or registered primary caregiver.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.103 Marihuana processor license.

Rule 3. (1) A marihuana processor license authorizes the marihuana processor to purchase or transfer ~~of~~ marihuana or marihuana-infused products from only a licensed marihuana establishment and sell or transfer ~~of~~ marihuana-infused products or marihuana to only a licensed marihuana establishment.

(2) Except as otherwise provided in these rules and the MRTMA, a marihuana processor license authorizes a marihuana processor to transfer marihuana only by means of a marihuana secure transporter. A marihuana processor license authorizes a marihuana processor to transfer marihuana without using a marihuana secure transporter to a marihuana grower, marihuana processor, or marihuana retailer if both of the following are met:

(a) The marihuana grower, marihuana processor, or marihuana retailer occupies the same location as the marihuana processor and the marihuana is transferred using only private real property without accessing public roadways.

(b) The marihuana processor enters each transfer into the statewide monitoring system.

(3) A marihuana processor must accurately enter all transactions, current inventory, and other information into the statewide monitoring system as required in these rules.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.104. Marihuana retailer license.

Rule 4. (1) A marihuana retailer license authorizes the marihuana retailer to purchase or transfer ~~of~~ marihuana or marihuana-infused products from only a licensed marihuana establishment and sell or transfer to only a licensed marihuana establishment or an individual 21 years of age or older. Except as otherwise provided in these rules, and the MRTMA, all transfers of marihuana to a marihuana retailer from a separate marihuana establishment must be by means of a marihuana secure transporter. A transfer of marihuana to a marihuana retailer from a marihuana establishment that occupies the same location as the marihuana retailer does not require a marihuana secure transporter if the marihuana is transferred to the marihuana retailer using only private real property without accessing public roadways.

(2) A marihuana retailer license authorizes the marihuana retailer to transfer marihuana to or from a marihuana safety compliance facility for testing by means of a marihuana secure transporter or as provided in these rules.

(3) A marihuana retailer shall comply with all of the following:

(a) Sell or transfer marihuana to an individual 21 years of age or older only after it has been tested in accordance with these rules and bears the label required for retail sale.

(b) Accurately **e**nter all transactions, current inventory, and other information into the statewide monitoring system as required in these rules.

(c) Before selling or transferring marihuana to an individual 21 years of age or older, verify the individual appears to be 21 years of age or older by means of government-issued photographic

identification containing a date of birth and that the sale or transfer will not exceed the single transaction limit in these rules.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.105 Marihuana microbusiness license.

Rule 5. (1) A marihuana microbusiness license authorizes the marihuana microbusiness to do all of the following:

(a) Cultivate not more than 150 plants. Only mature marihuana plants are included in the plant count in this subdivision.

(b) Process and package marihuana.

(c) Sell or transfer marihuana to an individual 21 years of age or older only.

(d) Transfer marihuana to a marihuana safety compliance facility for testing.

(2) Except as otherwise provided in R 420.304, this rule, and the MRTMA, a marihuana microbusiness license authorizes a marihuana microbusiness to transfer marihuana from the marihuana grower area to the marihuana processor and marihuana retailer areas of the marihuana microbusiness and from the marihuana processor area to marihuana grower and marihuana retailer areas of the marihuana microbusiness without using a marihuana secure transporter if all areas of the marihuana microbusiness enter each transfer between different areas of the marihuana microbusiness into the statewide monitoring system.

(3) A marihuana microbusiness shall not operate at multiple locations.

(4) A marihuana microbusiness must accurately enter all transactions, current inventory, and other information into the statewide monitoring system as required in these rules.

(5) A marihuana microbusiness may purchase or accept the transfer of marihuana seeds, tissue cultures, and clones that do not meet the definition of marihuana plant in these rules ~~at any time~~ from another grower licensed under the acts, these rules, or both. A marihuana microbusiness shall not sell or transfer marihuana seeds, tissue cultures, or clones received under this subrule.

(6) A marihuana microbusiness may accept the transfer of marihuana plants only once upon licensure from a registered primary caregiver if the registered primary caregiver was an applicant for that marihuana microbusiness license.

(7) A marihuana microbusiness license is subject to all applicable provisions in the MRTMA and these rules related to a marihuana grower, marihuana retailer, and marihuana processor license except for R 420.102(8).

(8) A marihuana microbusiness may not purchase or accept a mature plant from an individual, registered qualifying patient, or registered primary caregiver.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.105a Class A marihuana microbusiness license.

Rule 5a. (1) A class A marihuana microbusiness license authorizes the class A marihuana microbusiness to do all of the following:

(a) Cultivate not more than 300 plants. Only mature marihuana plants are included in the plant count in this subdivision.

(b) Package marihuana.

(c) Purchase marihuana concentrate and marihuana-infused products from a licensed marihuana processor.

(d) Sell or transfer marihuana and marihuana products to an individual 21 years of age or older only.

(e) Transfer marihuana to a marihuana safety compliance facility for testing.

(2) Except as otherwise provided in R 420.304, this rule, and the MRTMA, a class A marihuana microbusiness license authorizes a class A marihuana microbusiness to transfer marihuana only from the marihuana grower area to the marihuana retailer area of the class A marihuana microbusiness without using a marihuana secure transporter if all areas of the class A marihuana microbusiness enter each transfer between different areas of the class A marihuana microbusiness into the statewide monitoring system.

(3) A class A marihuana microbusiness shall not operate at multiple locations.

(4) A class A marihuana microbusiness shall accurately enter all transactions, current inventory, and other information into the statewide monitoring system as required in these rules.

(5) A class A marihuana microbusiness may purchase or accept the transfer of marihuana seeds, tissue cultures, clones, or marihuana plants at any time from another grower licensed under the acts, these rules, or both. A class A marihuana microbusiness shall not sell or transfer marihuana seeds, tissue cultures, or clones received under this subrule.

(6) A class A marihuana microbusiness shall not purchase or receive marihuana from a licensed marihuana processor.

(7) A class A marihuana microbusiness license is subject to all applicable provisions in the MRTMA and these rules related to a marihuana grower and marihuana retailer license except for R 420.102(8).

(8) A class A marihuana microbusiness may accept the transfer of marihuana plants only once upon licensure from a registered primary caregiver if the registered primary caregiver was an applicant for that class A marihuana microbusiness license.

(9) A class A marihuana microbusiness may not purchase or accept a mature plant from an individual, registered qualifying patient, or registered primary caregiver, except as authorized under subdivision (5) and subdivision (8) of this rule.

History: 2022 MR 5, Eff. Mar. 7, 2022.

R 420.106 Marihuana secure transporter license.

Rule 6. (1) A marihuana secure transporter license authorizes the licensee to store and transport marihuana and money associated with the purchase or sale of marihuana between marihuana establishments for a fee upon request of a person with legal custody of that marihuana or money. It does not authorize transport to a registered qualifying patient or registered primary caregiver. If a marihuana secure transporter has its primary place of business in a municipality that has not adopted an ordinance under section 6 of the MRTMA, MCL 333.27956, prohibiting marihuana establishments, the marihuana secure transporter may travel through any municipality.

(2) A marihuana secure transporter shall accurately enter all transactions, current inventory, and other information into the statewide monitoring system as required in these rules.

(3) A marihuana secure transporter shall comply with all of the following:

(a) Each driver transporting marihuana must have a chauffeur's license issued by this state.

(b) Each vehicle must be operated with a 2-person crew**,** with at least 1 individual remaining with the vehicle at all times during the transportation of marihuana.

(c) A route plan and manifest must be entered into the statewide monitoring system, and a copy must be carried in the transporting vehicle and presented to a law enforcement officer upon request.

(d) The marihuana must be transported in 1 or more sealed containers and not be accessible while in transit.

(e) A secure transporting vehicle may not bear markings or other indication that it is carrying marihuana or a marihuana-infused product.

(f) A secure transport vehicle may be stored at a location that is not the primary place of business of the secure transporter if the vehicle does not contain marihuana products and the address of storage is reported to the agency.

(4) A marihuana secure transporter is subject to administrative inspection by a law enforcement officer at any point during the transportation of marihuana to determine compliance with the MRTMA and these rules.

(5) A marihuana secure transporter may transfer marihuana and marihuana product to another marihuana secure transporter for the purpose of completing a transfer between marihuana establishments as long as all of the following are complied with:

(a) The transfer of marihuana or marihuana product takes place at a location that is licensed as a marihuana secure transporter.

(b) The transfer of product between marihuana secure transporters is on the manifest in the statewide monitoring system.

(c) The transfer of product between marihuana secure transporters occurs as a result of a request by the marihuana establishment that has sent the product to another marihuana establishment.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.107 Marihuana safety compliance facility license.

Rule 7. (1) A marihuana safety compliance facility license authorizes the marihuana safety compliance facility to do all of the following without using a marihuana secure transporter:

(a) Take marihuana from, test marihuana for, and return marihuana to only a licensed marihuana establishment.

(b) Collect a random sample of marihuana at the marihuana establishment of a marihuana grower, marihuana processor, marihuana retailer, marihuana microbusiness, or class A marihuana microbusiness for testing.

(c) Receive marihuana from and test marihuana for an individual 21 years of age or older. The marihuana safety compliance facility shall keep documentation for proof of age.

(2) A marihuana safety compliance facility must be accredited by an entity approved by the agency within 1 year after the date the marihuana safety compliance facility license is issued or have previously provided drug testing services to this state**,** or this state's court system**,** and be a vendor in good standing in regard to those services. The agency may grant a variance from this requirement upon a finding that the variance is necessary to protect and preserve the public health, safety, or welfare.

(3) A marihuana safety compliance facility that has not achieved accreditation as required under subrule (2) of this rule may not perform safety compliance testing or research and development

testing for a licensed marihuana establishment and may not charge or collect any fee for testing performed until compliance with subrule (2) of this rule is demonstrated to the agency.

(4) A marihuana safety compliance facility shall comply with all of the following:

(a) Perform safety tests to certify that marihuana is reasonably free of known contaminants in compliance with the standards established by the agency.

(b) Use validated test methods to perform all safety tests and to determine tetrahydrocannabinol (THC), tetrahydrocannabinol acid (THC-A), cannabidiol (CBD), and cannabidiol acid (CBD-A) concentrations.

(c) Perform other tests necessary to determine compliance with good manufacturing practices as prescribed in these rules.

(d) Accurately enter all transactions, current inventory, and other information into the statewide monitoring system as required in these rules.

(e) Have a secured laboratory space that cannot be accessed by the general public.

(f) Retain and employ at least 1 laboratory manager with a relevant advanced degree in a medical or laboratory science. -A laboratory manager is responsible for the following duties, including, but not limited to:

(i) Ensure tests are conducted in accordance with R 420.305.

(ii) Ensure test results are accurate and valid.

(iii) Oversee day-to-day operations.

(iv) Validate reporting requirements in the statewide monitoring system.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

PART 2. LICENSEES UNDER THE MEDICAL MARIHUANA FACILITIES LICENSING ACT

R 420.108 Grower license.

Rule 8. (1) A grower license authorizes the grower to grow not more than the following number of marihuana plants under the indicated license class for each license the grower holds in that class:

(a) Class A – 500 marihuana plants.

(b) Class B – 1,000 marihuana plants.

(c) Class C – 1,500 marihuana plants.

(2) For the purposes of this rule, a marihuana plant that meets the definition of a plant in the MMFLA is included in the plant count in subrule (1) of this rule.

(3) Except as otherwise provided in this subrule, a grower license authorizes sale of marihuana and marihuana plants to a grower only by means of a secure transporter. A grower license authorizes the sale or transfer of seeds, seedlings, or tissue cultures to a grower from a registered primary caregiver or another grower without using a secure transporter.

(4) A grower license authorizes a grower to transfer marihuana without using a secure transporter to a processor or provisioning center if both of the following are met:

(a) The processor or provisioning center occupies the same location as the grower and the marihuana is transferred using only private real property without accessing public roadways.

(b) The grower enters each transfer into the statewide monitoring system.

(5) A grower license authorizes sale of marihuana, other than seeds, seedlings, tissue cultures, and cuttings, to a processor or a provisioning center.

(6) Except as otherwise provided in subrules (2) and (3) of this rule and section 505 of the MMFLA, MCL 333.27505, a grower license authorizes the grower to transfer marihuana only by means of a secure transporter.

(7) To be eligible for a grower license, the applicant and each investor in the grower must not have an interest in a secure transporter or safety compliance facility.

(8) A grower shall accurately enter all transactions, current inventory, and other information into the statewide monitoring system as required in the MMFLA, these rules, and the marihuana tracking act.

(~~8~~9) A grower license does not authorize the grower to operate in an area unless the area is zoned for industrial or agricultural uses or is unzoned and otherwise meets the requirements established in section 205(1) of the medical marihuana facilities licensing act, MCL 333.27205.

(10) A grower may not purchase or accept a mature plant from an individual, registered qualifying patient, or registered primary caregiver.

(11) A grower may not accept marihuana or marihuana product back from a processor or provisioning center once it has been received into the processor or provisioning center's inventory in the statewide monitoring system, without obtaining written approval from the agency.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.109 Processor license.

Rule 9. (1) A processor license authorizes the processor to purchase marihuana only from a grower and sell marihuana-infused products or marihuana only to a provisioning center or another processor.

(2) Except as otherwise provided in section 505 of the medical marihuana facilities licensing act, MCL 333.27505, and this subrule, a processor license authorizes the processor to transfer marihuana only by means of a secure transporter. A processor license authorizes a processor to transfer marihuana without using a secure transporter to a grower or provisioning center if both of the following are met:

(a) The grower or provisioning center occupies the same location as the processor and the marihuana is transferred using only private real property without accessing public roadways.

(b) The processor accurately enters each transfer into the statewide monitoring system.

(3) To be eligible for a processor license, the applicant and each investor in the processor may not have an interest in a secure transporter or safety compliance facility.

(4) A processor shall enter all transactions, current inventory, and other information into the statewide monitoring system as required in the MMFLA, these rules, and the marihuana tracking act.

(5) A processor may not accept marihuana or marihuana product back from a provisioning center once it has been received into the provisioning center's inventory in the statewide monitoring system, without obtaining written approval from the agency.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.110 Secure transporter license.

Rule 10. (1) A secure transporter license authorizes the licensee to store and transport marihuana and money associated with the purchase or sale of marihuana between marihuana facilities for a fee upon request of a person with legal custody of that marihuana or money. -It does not authorize transport of marihuana products to a registered qualifying patient or registered primary caregiver. If a secure transporter has its primary place of business in a municipality that has adopted an ordinance under section 205 of the MMFLA, MCL 333.27205, authorizing the marihuana facility, the secure transporter may travel through any municipality.

(2) To be eligible for a secure transporter license, the applicant and each investor with an interest in the secure transporter may not have an interest in a grower, processor, provisioning center, or safety compliance facility and may not be a registered qualifying patient or registered primary caregiver.

(3) A secure transporter shall accurately enter all transactions, current inventory, and other information into the statewide monitoring system as required in the MMFLA, these rules, and the marihuana tracking act.

(4) A secure transporter shall comply with all of the following:

(a) Each driver transporting marihuana must have a chauffeur's license issued by this state.

(b) Each employee who has custody of marihuana or money that is related to a marihuana transaction shall not have been convicted of or released from incarceration for a felony under the laws of this state, any other state, or the United States within the past 5 years or have been convicted of a misdemeanor involving a controlled substance within the past 5 years.

(c) Each vehicle must be operated with a 2-person crew with at least 1 individual remaining with the vehicle at all times during the transportation of marihuana.

(d) A route plan and manifest must be entered into the statewide monitoring system, and a copy must be carried in the transporting vehicle and presented to a law enforcement officer upon request.

(e) The marihuana must be transported in 1 or more sealed containers and not be accessible while in transit.

(f) A secure transporting vehicle may not bear markings or other indication that it is carrying marihuana or a marihuana-infused product.

(g) A secure transport vehicle may be stored at a location that is not the primary place of business of the secure transporter if the vehicle does not contain marihuana products and the address of storage is reported to the agency.

(5) A secure transporter is subject to administrative inspection by a law enforcement officer at any point during the transportation of marihuana to determine compliance with the MMFLA.

(6) A secure transporter may transfer marihuana and marihuana product to another secure transporter for the purpose of completing a transfer between medical marihuana facilities as long as all of the following are complied with:

(a) The transfer of marihuana or marihuana product takes place at a location that is licensed as a secure transporter.

(b) The transfer of product between secure transporters is on the manifest in the statewide monitoring system.

(c) The transfer of product between secure transporters occurs as a result of a request by the medical marihuana facility that has sent the product to another medical marihuana facility.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.111 Provisioning center license.

Rule 11. (1) A provisioning center license authorizes the purchase or transfer of marihuana only from a grower or processor and sale or transfer to only a registered qualifying patient or registered primary caregiver. Except as otherwise provided in section 505 of the MMFLA, MCL 333.27505, and this subrule, all transfers of marihuana to a provisioning center from a separate marihuana facility must be by means of a secure transporter. A transfer of marihuana to a provisioning center from a marihuana facility that occupies the same location as the provisioning center does not require a secure transporter if the marihuana is transferred to the provisioning center using only private real property without accessing public roadways.

(2) A provisioning center license authorizes the provisioning center to transfer marihuana to or from a safety compliance facility for testing by means of a secure transporter or as provided in section 505 of the MMFLA, MCL 333.27505.

(3) To be eligible for a provisioning center license, the applicant and each investor in the provisioning center may not have an interest in a secure transporter or safety compliance facility.

(4) A provisioning center shall comply with all of the following:

(a) Sell or transfer marihuana to a registered qualifying patient or registered primary caregiver only after it has been tested and bears the label required for retail sale.

(b) Accurately enter all transactions, current inventory, and other information into the statewide monitoring system as required in the MMFLA, these rules, and the marihuana tracking act.

(c) Before selling or transferring marihuana to a registered qualifying patient or to a registered primary caregiver on behalf of a registered qualifying patient, inquire of the statewide monitoring system to determine whether the patient and, if applicable, the caregiver**,** hold a valid, current, unexpired, and unrevoked registry identification card and that the sale or transfer will not exceed the daily and monthly purchasing limit established by the agency under the MMFLA.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.112 Safety compliance facility license; exception for industrial hemp.

Rule 12. (1) In addition to transfer and testing as authorized in section 203 of the MMFLA, MCL 333.27203, a safety compliance facility license authorizes the safety compliance facility to do all of the following without using a secure transporter:

(a) Take marihuana from, test marihuana for, and return marihuana to only a marihuana facility.

(b) Collect a random sample of marihuana at the marihuana facility of a grower, processor, or provisioning center for testing.

(2) A safety compliance facility must be accredited by an entity approved by the agency by 1 year after the date the license is issued or have previously provided drug testing services to this state or this state's court system and be a vendor in good standing in regard to those services. The agency may grant a variance from this requirement upon a finding that the variance is necessary to protect and preserve the public health, safety, or welfare.

(3) A safety compliance facility that has not achieved accreditation as required by subrule (2) of this rule may not perform safety compliance testing or research and development testing for a licensed marihuana facility and may not charge or collect any fee for testing performed until compliance with subrule (2) of this rule is demonstrated to the agency.

(4) To be eligible for a safety compliance facility license, the applicant, and each investor with any interest in the safety compliance facility must not have an interest in a grower, secure transporter, processor, or provisioning center.

(5) A safety compliance facility shall comply with all of the following:

(a) Perform tests to certify that marihuana is reasonably free from chemical residues such as fungicides and insecticides.

(b) Use validated methods for all testing required by the agency.

(c) Perform tests that determine whether marihuana complies with the standards the agency establishes.

(d) Perform additional tests necessary to determine compliance with any other good manufacturing practices as prescribed in these rules.

(e) Accurately enter all transactions, current inventory, and other information into the statewide monitoring system as required in the MMFLA, these rules, and the marihuana tracking act.

(f) Have a secured laboratory space that cannot be accessed by the general public.

(g) Retain and employ at least 1 laboratory manager with a relevant advanced degree in a medical or laboratory science. A laboratory manager ~~shall be~~ **is** responsible for the following duties**,** including, but not limited to:

(i) Ensure tests are conducted in accordance with R 420.305.

(ii) Ensure test results are accurate and valid.

(iii) Oversee day-to-day operations.

(iv) Validate reporting requirements in the statewide monitoring system.

(6) A safety compliance facility is not prohibited from taking or receiving industrial hemp for testing purposes and testing the industrial hemp pursuant to the industrial hemp research and development act.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

PART 3. AGREEMENTS

R 420.112a Licensing, management, or other agreements.

Rule 12a. (1) A licensee may contract with another party to use the other party's intellectual property or for the other party to provide management or other services necessary for the operation of the licensee pursuant to a licensing or management agreement approved by the agency.

(2) A licensee shall submit a complete, unredacted, signed copy of the licensing, management, or other agreement to the agency for review and approval prior to performance under the agreement. Approval by the agency indicates an agency determination that it does not appear based upon the information provided that the other party meets the definition of applicant.

(3) The agreement must include, but is not limited to, all of the following:

(a) All payment terms between the parties. Licensing agreements must also include a requirement that all payments made to the other party pursuant to the licensing agreement must be made by the licensee and not by any other licensee purchasing the marihuana product.

(b) Terms specifically naming and clearly defining any service to be performed pursuant to the agreement.

(c) Terms specifically requiring all business operations related to the production, sales, invoicing, and payment for marihuana products sold pursuant to a licensing agreement must be performed by the licensee.

(d) A statement indicating that the agreement contains the entire agreement of the parties.

(4) Terms that may indicate the other party meets the definition of applicant and is thereby subject to application requirements, include, but are not limited to, the following:

(a) Any term or condition that would allow the other party to exercise control over or participate in the management of the licensee. This does not include control or terms specific to a licensing agreement such as production method or packaging requirements.

(b) Any term or condition that would allow the other party to receive more than 10% of the gross or net profit from the licensee during any full or partial calendar or fiscal year.

(c) Any term or condition that would result in the other party obtaining an ownership interest in the marihuana business or taking possession or ownership of marihuana product owned by the marihuana business.

(d) Any term or condition that would require the licensee to name the other party as a named insured on any insurance policy required to be maintained as a condition of a marihuana license.

(5) Any term or condition that would allow the licensee to use an assumed name or doing business as in the operation of the licensee is not operative unless the licensee has complied with the requirements of 1907 PA 101, MCL 445.1 to 445.5.

(6) The licensee shall provide any other information requested by the agency that is not inconsistent with the acts and these rules.

History: 2022 MR 5, Eff. Mar. 7, 2022.

R 420.113 Severability.

Rule 13. If any rule or subrule of these rules, in whole or in part, is found to be invalid by a court of competent jurisdiction, such decision will not affect the validity of the remaining portion of these rules.

History: 2020 AACS.

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

MARIJUANA REGULATORY AGENCY

MARIHUANA OPERATIONS

(By authority conferred on the executive director of the marijuana regulatory agency by section 206 of the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27206, sections 7 and 8 of the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27957 and 333.27958, and Executive Reorganization Order No. 2019-2, MCL 333.27001)

R 420.201 Definitions.

Rule 1. (1) As used in these rules:

(a) "Acts" refers to the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801, and the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27951 to 333.27967, when applicable.

(b) "Administrative hold" means a status given to marihuana product by the agency during an investigation into alleged violations of the acts and these rules. This status includes no sale or transfer of the marihuana product until the hold is lifted.

(c) "Agency" means the marijuana regulatory agency.

(d) "Applicant" means a person who applies for a marihuana license, subject to paragraphs (i) and (ii) of this subdivision:

(i) For purposes of this definition, an applicant includes a managerial employee of the applicant, a person holding a direct or indirect ownership interest of more than 10% in the applicant, and the following for each type of applicant:

(A) For an individual or sole proprietorship: the proprietor and spouse.

(B) For a partnership and limited liability partnership: all partners and their spouses.

(C) For a limited partnership and limited liability limited partnership: all general and limited partners, not including a limited partner holding a direct or indirect ownership interest of 10% or less who does not exercise control over or participate in the management of the partnership, and their spouses.

(D) For a limited liability company: all members and managers, not including a member holding a direct or indirect ownership interest of 10% or less who does not exercise control over or participate in the management of the company, and their spouses.

(E) For a privately held corporation: all corporate officers or persons with equivalent titles and their spouses, all directors and their spouses, all stockholders, not including those holding a direct or indirect ownership interest of 10% or less, and their spouses.

(F) For a publicly held corporation: all corporate officers or persons with equivalent titles and their spouses, all directors and their spouses, all stockholders, not including those holding a direct or indirect ownership interest of 10% or less, and their spouses.

(G) For a multilevel ownership enterprise: any entity or person that receives or has the right to receive more than 10% of the gross or net profit from the enterprise during any full or partial calendar or fiscal year.

(H) For a nonprofit corporation: all individuals and entities with membership or shareholder rights in accordance with the articles of incorporation or the bylaws and their spouses.

(I) For a trust: trustees, any individual or body able to control and direct the affairs of the trust, and any beneficiary who receives or has the right to receive more than 10% of the gross or net profit of the trust during any full or partial calendar or fiscal year and their spouses.

(ii) For purposes of this definition, an applicant does not include:

(A) A person who provides financing to an applicant or licensee under a bona fide financing agreement at a reasonable interest rate.

(B) A franchisor who grants a franchise to an applicant, if the franchisor does not have the right to receive royalties based upon the sale of marihuana or marihuana-infused products by the applicant who is a franchisee. Nothing in this subrule shall be construed to preclude a franchisor from charging an applicant who is a franchisee a fixed fee. As used in this definition, the terms "franchise," "franchisor," and "franchisee" have the meanings set forth in section 2 of the franchise investment law, 1974 PA 269, MCL 445.1502.

(C) A person receiving reasonable payment for rent on a fixed basis under a bona fide lease or rental obligation.

(D) A person receiving reasonable payment under a licensing agreement or contract approved by the agency concerning the licensing of intellectual property including, but not limited to, brands and recipes.

(e) "Batch" means all marihuana product of the same variety that has been processed together and exposed to substantially similar conditions throughout processing.

(f) "Building" means a combination of materials forming a structure affording a facility, an establishment, or shelter for use or occupancy by individuals or property. Building includes a part or parts of the building and all equipment in the building. A building does not include a building incidental to the use for agricultural purposes of the land on which the building is located.

(g) "Bureau of fire services" or "BFS" means the bureau of fire services in the department of licensing and regulatory affairs.

(h) "Common ownership" means 2 or more state licenses or 2 or more equivalent licenses held by 1 person under the Michigan Regulation and Taxation of Marihuana Act.

(i) "Cultivator" refers to both a grower under the medical marihuana facilities licensing act and a marihuana grower under the Michigan Regulation and Taxation of Marihuana Act.

(j) "Designated consumption establishment" means a commercial space that is licensed by the agency and authorized to permit adults 21 years of age and older to consume marihuana products at the location indicated on the state license.

(k) "Employee" means a person performing work or service for compensation. "Employee" does not include individuals providing trade or professional services who are not normally engaged in the operation of a marihuana business.

(l) "Equivalent licenses" means any of the following held by a person:

(i) A marihuana grower license of any class issued under the Michigan Regulation and Taxation of Marihuana Act and a grower license, of any class, issued under the medical marihuana facilities licensing act.

(ii) A marihuana processor license issued under the Michigan Regulation and Taxation of Marihuana Act and a processor license issued under the medical marihuana facilities licensing act.

(iii) A marihuana retailer license issued under the Michigan Regulation and Taxation of Marihuana Act and a provisioning center license issued under the medical marihuana facilities licensing act.

(iv) A marihuana secure transporter license issued under the Michigan Regulation and Taxation of Marihuana Act and a secure transporter license issued under the medical marihuana facilities licensing act.

(v) A marihuana safety compliance facility license issued under the Michigan Regulation and Taxation of Marihuana Act and a safety compliance facility license issued under the medical marihuana facilities licensing act.

(m) “Final form” means the form a marihuana product is in when it is available for sale by a marihuana sales location**,** not including consumer packaging. For marihuana products intended for inhalation, final form means the marihuana concentrate in an e-cigarette or a vaping device.

(n) "Immature plant” means a nonflowering marihuana plant that is no taller than 8 inches from the growing or cultivating medium and no wider than 8 inches produced from a cutting, clipping, tissue culture, or seedling that is in a growing or cultivating medium or in a growing or cultivating container.

(o) “Inactive ingredients” means binding materials, dyes, preservatives, flavoring agents, and any other ingredient that is not derived from the plant *Cannabis sativa L*.

(p) “Laboratory” refers to both a safety compliance facility under the medical marihuana facilities licensing act and a marihuana safety compliance facility under the Michigan Regulation and Taxation of Marihuana Act.

(q) “Limited access area” means a building, room, or other contiguous area of a marihuana business where marihuana is grown, cultivated, stored, weighed, packaged, sold, or processed for sale and that is under the control of the licensee.

(r) “Marihuana business” refers to both a marihuana facility under the medical marihuana facilities licensing act and a marihuana establishment under the Michigan Regulation and Taxation of Marihuana Act.

(s) “Marihuana business location plan” means a marihuana facility plan under the medical marihuana facilities licensing act, or a marihuana establishment plan under the Michigan Regulation and Taxation of Marihuana Act, or both.

(t) “Marihuana customer” refers to a registered qualifying patient or registered primary caregiver under the medical marihuana facilities licensing act, or an individual 21 years of age or older under the Michigan Regulation and Taxation of Marihuana Act, or both.

(u) “Marihuana establishment” means a marihuana grower, marihuana safety compliance facility, marihuana processor, marihuana microbusiness, marihuana retailer, marihuana secure transporter, or any other type of marihuana-related business licensed by the agency under the Michigan Regulation and Taxation of Marihuana Act.

(v) “Marihuana event organizer” means a person licensed to apply for a temporary marihuana event license under these rules.

(w) “Marihuana facility” means a location at which a licensee is licensed to operate under the medical marihuana facilities licensing act.

(x) “Marihuana license” means a state operating license issued under the medical marihuana facilities licensing act, or a state license issued under the Michigan Regulation and Taxation of Marihuana Act, or both.

(y) “Marihuana product” means marihuana or a marihuana-infused product, or both, as those terms are defined in the acts unless otherwise provided for in these rules.

(z) “Marihuana sales location” refers to a provisioning center under the medical marihuana facilities licensing act or a marihuana retailer, ~~or~~ marihuana microbusiness, or class A marihuana microbusiness under the Michigan Regulation and Taxation of Marihuana Act, or both.

(aa) “Marihuana tracking act” means the marihuana tracking act, 2016 PA 282, MCL 333.27901 to 333.27904.

(bb) “Marihuana transporter” means a secure transporter under the medical marihuana facilities licensing act or a marihuana secure transporter under the Michigan Regulation and Taxation of Marihuana Act, or both.

(cc) “Medical marihuana facilities licensing act” or “MMFLA” means the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801.

(dd) “Michigan Medical Marihuana Act” means the Michigan Medical Marihuana Act, 2008 IL 1, MCL 333.26421 to 333.26430.

(ee) “Michigan Regulation and Taxation of Marihuana ~~a~~Act” or “MRTMA” means the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27951 to 333.27967.

(ff) “Producer” refers to both a processor under the medical marihuana facilities licensing act and a marihuana processor under the Michigan Regulation and Taxation of Marihuana Act.

(gg) “Proposed marihuana business” means a proposed marihuana establishment under the Michigan Regulation and Taxation of Marihuana Act or a proposed marihuana facility under the medical marihuana facilities licensing act, or both.

(hh) “Records of formulation” means the documentation that includes at a minimum: the ingredients, recipe, processing in order to be shelf stable, Certificates of Analysis for any ingredient used, and description of the process in which all ingredients are combined to produce a final form.

(ii) “Restricted access area” means a designated and secure area at a marihuana business where marihuana products are sold, possessed for sale, or displayed for sale.

(jj) “These rules” means the administrative rules promulgated by the agency under the authority of the medical marihuana facilities licensing act, the marihuana tracking act, the Michigan Regulation and Taxation of Marihuana Act, and Executive Reorganization Order No. 2019-2, MCL 333.27001.

(kk) “Same location” means separate marihuana licenses that are issued to multiple marihuana businesses that are authorized to operate at a single property but with separate business suites, partitions, or addresses.

(ll) “Source documentation” means an original document that contains the details of a marihuana business transaction.

(mm) “Stacked license” means more than 1 marihuana license issued to a single licensee to operate as a Class C grower as specified in each license at a marihuana business under the medical marihuana facilities licensing act, or under the Michigan Regulation and Taxation of Marihuana Act, or both.

(nn) “Tag” or “RFID tag” means the unique identification number or Radio Frequency Identification (RFID) issued to a licensee by the statewide monitoring system for tracking, identifying, and verifying marihuana plants, marihuana products, and packages of marihuana product in the statewide monitoring system.

(oo) “Temporary marihuana event license” means a state license held by a marihuana event organizer under the Michigan Regulation and Taxation of Marihuana Act, for an event where the onsite sale or consumption of marihuana products, or both, are authorized at the location indicated on the state license during the dates indicated on the state license.

(2) Terms defined in the acts have the same meanings when used in these rules unless otherwise indicated.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.202 Adoption by reference.

Rule 2. (1) The following codes, standards, or regulations of nationally recognized organizations or associations are adopted by reference in these rules:

National fire protection association (NFPA) standard 1, 2021 edition, entitled "Fire Code," is adopted by reference as part of these rules. Copies of the adopted provisions are available for inspection and distribution from the National Fire Protection Association, 1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts, 02169, telephone number 1-800-344-3555, for the price of $114.50.

(b) National fire protection association (NFPA) standard 58, 2020 edition, entitled "Liquified Petroleum Gas Code**,**" is adopted by reference as part of these rules. Copies of the adopted provisions are available for inspection and distribution from the National Fire Protection Association, 1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts, 02169, telephone number 1-800-344-3555, for the price of $70.50.

(2) The standards adopted in subrule (1) of this rule are available for inspection and distribution at the agency, located at 2407 North Grand River Avenue, Lansing, Michigan, 48906. Copies of these standards may be obtained from the agency at the cost indicated in subrule (1)(a) and (b) of this rule, plus shipping and handling.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.203 Marihuana licenses; licensees; operations; general.

Rule 3. (1) A marihuana license and a stacked license as described in these rules are limited to the scope of the marihuana license issued for that type of marihuana business that is located within the municipal boundaries connected with the marihuana license.

(2) A licensee shall comply with all of the following:

(a) Except as provided in R 420.204 and R 420.205, a marihuana business must be partitioned from any other marihuana business or activity, any other business, or any dwelling.

(b) A marihuana business shall not allow onsite or as part of the marihuana business any of the following:

(i) Sale, consumption, or serving of food except as provided in these rules unless the business is a designated consumption establishment or a temporary marihuana event that has obtained any required authorizations from other federal, state, or local agencies.

(ii) Consumption, use, or inhalation of a marihuana product unless the licensee has been granted a designated consumption establishment or temporary marihuana event license under the MRTMA, and these rules.

(c) A marihuana business must have distinct and identifiable areas with designated structures that are contiguous and specific to the marihuana license.

(d) A marihuana business must have separate entrances and exits, inventory, record keeping, and point of sale operations, if applicable.

(e) Access to a marihuana business's restricted and limited access areas is restricted to the licensee, employees of the licensee, escorted visitors, and the agency. A marihuana sales location**,** a marihuana microbusiness**,** or a class A marihuana microbusiness may grant access as provided in R 420.206(9) to customers to a dedicated point of sale area.

(f) Licensee records must be maintained as follows and made available to the agency upon request:

(i) A licensee shall maintain accurate and comprehensive financial records for each license that clearly documents the licensee's income and expenses. Applicable supporting source documentation must be maintained, including, but not limited to, all of the following:

(A) Cash logs.

(B) Sales records.

(C) Purchase of inventory.

(D) Invoices.

(E) Receipts.

(F) Deposit slips.

(G) Cancelled checks.

(H) Employee compensation records.

(I) Tax records.

(ii) Bulk financial deposits or transactions must be traceable to the individual transactions that comprise the bulk deposit or transaction.

(iii) Licensee records must be maintained for at least 4 years, except in instances of investigation or inspection by the agency in which case the licensee shall retain the records until such time as the agency notifies the licensee that the recordings may be destroyed.

(g) The marihuana business must be at a fixed location. Mobile marihuana businesses are prohibited. Any sales or transfers of marihuana product by mail order or on consignment are prohibited.

(h) A marihuana license must be framed under a transparent material and prominently displayed in the marihuana business.

(3) A marihuana business shall comply with all of the following:

(a) The natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106. The agency may publish guidance in cooperation with the department of environment, great lakes, and energy.

(b) Any other operational measures requested by the agency that are not inconsistent with the acts and these rules.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.204 Operation at same location.

Rule 4. (1) A licensee that has any combination of marihuana licenses may operate separate marihuana businesses at the same location. For purposes of this rule, a stacked license is considered a single marihuana business.

(2) To operate at the same location subject to subrule (1) of this rule, a licensee shall meet all of the following requirements:

(a) The agency has authorized the proposed operation at the same location.

(b) The operation at the same location is not in violation of any local ordinances or regulations.

(c) The operation at the same location does not circumvent a municipal ordinance or zoning regulation that limits the marihuana businesses under the acts.

(d) The licensee of each marihuana business operating at the same location under this rule shall do all the following:

(i) Apply for and be granted separate marihuana licenses and pay the required fees for each marihuana license.

(ii) Have distinct and identifiable areas with designated structures that are on the same parcel or a contiguous parcel and specific to the marihuana license.

(iii) Have separate inventory, record keeping, and point of sale operations.

(iv) Post each marihuana license on the wall in its distinct area and as provided in these rules.

(v) Obtain any additional inspections and permits required for local or state building inspection, fire services, and public health standards.

(vi) Comply with the provisions in the acts and these rules.

(3) Operation of a marihuana license at the same location that includes a licensed marihuana sales location must have the entrance and exit to the licensed marihuana sales location and entire inventory physically separated from any of the other licensed marihuana businesses so that individuals can clearly identify the sales entrance and exit.

(4) Operation of marihuana licenses at the same location may include a combined space for the following purposes:

(a) Complying with R 420.214a.

(b) Storage of marijuana and marijuana products in final form.

(c) A designated area under 420.602(5).

(d) Loading and unloading marijuana product.

(e) Storage of the physical media or storage device on which surveillance recordings are stored under R 420.209(10).

(5) A laboratory may be co-located with an existing accredited laboratory that is not licensed by the MRA, with agency approval, if the following criteria are met:

(a) The existing laboratory performs analytical scientific testing in a laboratory environment, and the testing methods are recognized by an accrediting body.

(b) Testing of marihuana product is performed separately from other materials.

(c) All marihuana product is stored separately from any other materials located at the site for testing.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.205 Equivalent licenses; operation at same location.

Rule 5. (1) A person that holds equivalent licenses with common ownership under the acts may operate those equivalent licenses at the same location.

(2) To operate equivalent licenses at the same location, all of the following requirements must be met:

(a) The agency has authorized the proposed operation at the same location.

(b) The operation at the same location is not in violation of any local ordinances or regulations.

(c) The operation at the same location does not circumvent a municipal ordinance or zoning regulation that limits the marihuana businesses under the acts.

(d) The person operating the equivalent licenses at the same location under this rule shall do all the following:

(i) Apply for and be granted a separate state license and a state operating license and pay the required fees for each license.

(ii) Post each state license and state operating license on the wall in its distinct area and as provided in these rules.

(iii) Obtain any additional inspections and permits required for local or state building inspection, fire services, and public health standards, if applicable.

(iv) Comply with the provisions in the acts and these rules.

(3) A licensee with common ownership of a marihuana retailer and a provisioning center and operating equivalent licenses at the same location shall physically separate the entire inventories and the items on display for sale so that individuals may clearly identify medical marihuana products from adult-use marihuana products.

(4) A licensee with common ownership of a marihuana retailer and a provisioning center and operating the equivalent licenses at the same location shall not bundle a product subject to the excise tax in section 13 of the MRTMA, MCL 333.27963, in a single transaction with a product or service that is not subject to the tax imposed by that section.

(5) A person who holds equivalent licenses with common ownership under the acts and operates at the same location is not required to have any of the following:

(a) Separate business suites, partitions, or addresses.

(b) Separate entrances and exits.

(c) Distinct and identifiable areas with designated structures that are contiguous and specific to the state license and the state operating license.

(d) Separate point of sale area and operations.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.206 Marihuana business; general requirements.

Rule 6. (1) A cultivator shall not operate a marihuana business unless either of the following conditions is met:

(a) The cultivator operations are within a building that meets the security requirements and passes the inspections in these rules and has a building permit pursuant to R 420.208 and these rules.

(b) The cultivator operations are within a building, except that cultivation may occur in an outdoor area, if all of the following conditions are met:

(i) The outdoor area containing the cultivation of marihuana plants is contiguous with the building, fully enclosed by fences or barriers that ensure that the plants are not visible from a public place without the use of binoculars, aircraft, or other optical aids, and the fences are secured and comply with the applicable security measures in these rules, including, but not limited to, locked entries only accessible to authorized persons or emergency personnel.

(ii) After the marihuana is harvested, all drying, trimming, curing, or packaging of marihuana occurs inside the building meeting all the requirements under these rules.

(iii) The building meets the security requirements and passes the inspections in these rules and has a building permit pursuant to R 420.208 and these rules.

(2) A cultivator who has obtained good agricultural collection processes certification may sell immature plants to a marihuana sales location under the allowances published by the agency.

(3) The agency shall publish a list of approved chemical residue active ingredients for cultivators to use in the cultivation and production of marihuana plants and marihuana products to be sold or transferred in accordance with the acts or these rules.

(4) The agency shall publish a list of banned chemical residue active ingredients that are prohibited from use in the cultivation and production of marihuana plants and marihuana products to be sold or transferred in accordance with the acts or these rules.

(5) A marihuana secure transporter under the MRTMA shall have a primary place of business as its marihuana business that operates in a municipality that has not adopted an ordinance prohibiting marihuana businesses from operating within its boundaries under section 6 of the MRTMA, MCL 333.27956, and these rules, and its marihuana business must comply with the requirements prescribed by the MRTMA, these rules, and any municipal ordinances that meet the requirements of section 6 of the act, MCL 333.27956.

(6) A secure transporter under the MMFLA shall have a primary place of business as its marihuana facility that operates in a municipality that has adopted an ordinance that meets the requirements of section 205 of the act, MCL 333.27205, and the rules, and its marihuana facility must comply with the requirements prescribed by the MMFLA and these rules.

(7) A marihuana transporter shall hold a separate license for every marihuana transporter location. A marihuana transporter may travel through any municipality to transport a marihuana product. A marihuana transporter shall comply with all of the following:

(a) The marihuana transporter may take physical custody of the marihuana or money, but legal custody belongs to the transferor or transferee.

(b) A marihuana transporter shall not sell or purchase marihuana products.

(c) A marihuana transporter shall transport any marihuana product in a locked, secured, and sealed container that is not accessible while in transit. The container must be secured by a locked closed lid or door, or sealed by tamper-proof tape or equivalent provided the means of sealing the product would alert the receiving facility that the product had been tampered with at some point from the time it departed the shipping facility. A marihuana transporter of marihuana product from separate marihuana businesses shall not comingle the marihuana product. All marihuana products must be labeled in accordance with these rules and kept in separate compartments or containers within the main locked, secured, and sealed container. If the marihuana transporter transports money associated with the purchase or sale of marihuana product between businesses, the marihuana transporter shall lock the money in a sealed container kept separate from the marihuana product and only accessible to the licensee and its employees.

(d) A marihuana transporter shall log and track all handling of money associated with the purchase or sale of marihuana between marihuana businesses. These records must be maintained and made available to the agency upon request.

(e) A marihuana transporter shall have a route plan and manifest available for inspection by the agency to determine compliance with the acts and these rules. A copy of the route plan and manifest must be carried with the marihuana transporter during transport between marihuana businesses. A marihuana transporter is subject to administrative inspection by a law enforcement officer at any point during the transportation of marihuana product pursuant to these rules. A marihuana transporter shall carry a copy of a route plan and manifest in the transporting vehicle and shall present them to a law enforcement officer upon request.

(f) A marihuana transporter shall not possess marihuana product that is not on a manifest.

(g) A marihuana transporter shall follow the manifest.

(h) A marihuana transporter shall store vehicles at its primary place of business. If a marihuana transporter stores a vehicle that does not contain marihuana or marihuana product at a location that is not its primary place of business, it shall indicate that in its business plan.

(i) A marihuana transporter transferring marihuana product to a marihuana business shall remain onsite until the marihuana product is weighed and accepted or rejected before leaving the marihuana business.

(j) A marihuana transporter shall not maintain custody of the marihuana product for more than 96 hours unless permission is otherwise sought and granted by the agency, which will be reviewed on a case-by case basis.

(k) A marihuana transporter shall identify and record all vehicles with the agency and have the required vehicle registration with the secretary of state as required under state law.- A marihuana transporter's vehicles are subject to inspection at any time by the agency to determine compliance with the acts or these rules.

(8) A laboratory shall comply with all of the following:

(a) Provide written notice to the agency within 7 days of a laboratory manager no longer being employed at the facility.

(b) Designate an interim laboratory manager within 7 days of the laboratory manager's departure. The interim laboratory manager must meet either of the following requirements:

(i) The interim laboratory manager must meet at least 1 of the qualifications for a laboratory manager.

(ii) The interim laboratory manager must have, at minimum, a bachelor's degree in 1 of the natural sciences and 3 years of full-time laboratory experience in a regulated laboratory environment, performing analytical scientific testing in which the testing methods were recognized by an accrediting body. A combination of education and experience may substitute for the 3 years of full-time laboratory experience.

(c) Hire a permanent laboratory manager within 60 calendar days from the date of the previous laboratory manager's departure, unless the laboratory receives a written waiver from the agency. A laboratory may submit a waiver request to the agency to receive an additional 60 calendar days to hire a permanent laboratory manager if the laboratory submits a detailed oversight plan along with the waiver request.

(9) A marihuana sales location must have a separate room that is dedicated as the point of sale area for the transfer or sale of marihuana product as provided in the acts and these rules. The marihuana sales location shall keep marihuana products behind a counter or other barrier to ensure that a customer does not have direct access to the marihuana products. A marihuana sales location may also have a designated area for contactless or limited contact transactions.

(10) A marihuana business shall label all marihuana products with the ingredients of the product, in descending order of predominance by weight.

(11) All non-marihuana inactive ingredients must be clearly listed on the product label. Inactive ingredients**,** other than botanically derived flavonoids, terpenoids, and terpenes that are chemically identical to the terpenes derived from the plant Cannabis **s**ativa L., must be approved by the FDA for the intended use, and the concentration must be less than the maximum concentration listed in the FDA Inactive Ingredient database for the intended use.

(12) A marihuana business producing marihuana products shall maintain records of formulation and make them available to the agency upon request.

(13) All ingredients containing cannabinoids, whether naturally occurring or synthetically derived, that are added to marihuana or marihuana products must be from a source licensed to grow, handle, and produce cannabinoids under a license issued by a governmental authority and entered into the statewide monitoring system.

(14) When combining marihuana and marihuana product into another marihuana product, each form of marihuana and marihuana product being combined must have passing safety compliance test results in the statewide monitoring system prior to the creation of the new combined product.

(15) A marihuana business shall comply with random compliance checks upon the request of the agency. The agency or its authorized agents may collect a random sample of a marihuana product from a marihuana business or designate a laboratory to collect a random sample of a marihuana product in a secure manner to test that sample for compliance.

(16) The agency may update or issue new standards as necessary to protect the health, safety, and welfare of consumers and the public. -A marihuana business shall comply with all new or updated standards issued by the agency within 6 months of their adoption by the agency unless there is an identifiable public health or safety risk.

(17) A marihuana business transferring marihuana product to or receiving marihuana product from a marihuana transporter shall initiate the procedures to transfer or receive the marihuana product within 30 minutes of the marihuana transporter's arrival at the marihuana business.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.206a Standard operating procedures.

Rule 6a. (1) A marihuana business must have up-to-date written standard operating procedures on site at all times.

(2) Standard operating procedures must be made available to the agency upon request.

(3) Standard operating procedures must detail the marihuana business operations and activities necessary for the marihuana business to comply with the acts and these rules.

(4) If the agency determines that any standard operating procedure contains inaccurate information or does not comply with these rules and safe food management guidelines, as applicable, the licensee may be required to correct the practice immediately and update the standard operating procedures within 1 business day.

History: 2022 MR 5, Eff. Mar. 7, 2022.

R 420.207 Marihuana delivery; limited circumstances.

Rule 7. (1) A marihuana sales location licensee may engage in the delivery of a marihuana product for sale or transfer to marihuana customers upon approval by the agency of the licensee's delivery procedures.

(2) A marihuana sales location licensed under the MMFLA that engages in delivery shall establish procedures as specified in this rule to allow an employee of the marihuana sales location to deliver a marihuana product to a patient at the patient's residential address.

(3) A marihuana sales location licensed under the MRTMA that engages in delivery shall establish procedures as specified in this rule to allow an employee of the marihuana sales location to deliver a marihuana product to an individual 21 years of age or older at a residential address or at the address of a designated consumption establishment provided at the time the order was placed.

(4) All of the following apply to the marihuana delivery procedures established by a marihuana sales location:

(a) For the purposes of this rule only, a marihuana sales location may accept an online order request of a marihuana product and payment for the order that will be delivered only to the physical residence of the registered qualifying patient as provided in this rule, or to a residential address or the address of a designated consumption establishment provided by an individual 21 years of age or older as provided in this rule.

(b) The marihuana sales location shall create a marihuana delivery procedure that is subject to inspection and examination including, but not limited to, record keeping and tracking requirements. The agency may publish guidelines on the required procedure.

(c) All marihuana delivery employees shall meet the requirements in R 420.602 and are employees**,** as defined in R 420.601(1)(d), of the marihuana sales location.

(5) A marihuana sales location that has received authorization under subrule (1) of this rule shall comply with all of the following:

(a) The marihuana sales location shall verify that the sale or transfer to marihuana customers is in accordance with these rules.

(b) The marihuana delivery employee may take payment upon delivery and shall deliver the marihuana product.

(c) The amount of marihuana product that may be delivered is limited to the daily and monthly purchase limits of the registered qualifying patient as provided in these rules; or to the single transaction purchase limits for individuals 21 years of age or older as provided in these rules.

(d) The marihuana sales location shall record all transactions in the statewide monitoring system as required in the acts and these rules.

(e) An employee of the marihuana sales location shall make marihuana deliveries only to 1 of the following:

(i) Subject to paragraph (ii) of this subdivision, a registered qualifying patient.

(ii) A registered primary caregiver if the registered qualifying patient is a minor. If the registered qualifying patient is a minor, delivery must be made only to his or her registered primary caregiver.

(iii) An individual 21 years of age or older.

(f) A marihuana delivery employee shall verify that the person taking delivery is the registered qualifying patient or the registered primary caregiver of a registered qualifying patient who is a minor, who has been recorded in the statewide monitoring system, or the individual 21 years of age or older who placed the order.

(g) The authorization granted to a marihuana sales location pursuant to subrule (1) of this rule may be denied, suspended, or withdrawn by the agency. The marihuana sales location may be subject to other sanctions and fines as provided in the acts and these rules.

(6) A marihuana sales location shall maintain records of all of the following that must be made available to the agency upon request:

(a) For a marihuana sales location licensed under the MMFLA, confirmation that the marihuana customer presented his or her valid driver’s license or government issued identification bearing a photographic image of the marihuana customer along with his or her marihuana registry card, or temporary marihuana registry card, to verify that he or she is the patient or, if the registered qualifying patient is a minor, the registered primary caregiver.

(b) For a marihuana sales location licensed under the MRTMA, confirmation that the marihuana customer presented his or her valid driver’s license or government issued identification bearing a photographic image of the marihuana customer to verify that the marihuana customer is 21 years of age or older at the time of delivery.

(c) Validation that the address for marihuana delivery of a marihuana product is the residential address of the registered qualifying patient, or the residential address or address of a designated consumption establishment provided by the customer at the time the order for the marihuana product was placed.

(d) Maintenance of the following records for any motor vehicle used for marihuana delivery and the making of the records available to the agency upon request:

(i) Vehicle make.
(ii) Vehicle model.
(iii) Vehicle color.
(iv) Vehicle identification number.
(v) License plate number.
(vi) Vehicle registration.
(vii) Proof of vehicle insurance.

(e) Documentation that the marihuana customer has consented to the marihuana delivery of the marihuana product. The consent must include an acknowledgement by the marihuana customer for the release of information necessary in fulfilling the home delivery.

(f) Verification, by a licensee under the MMFLA, in the statewide monitoring system that the registered qualifying patient holds a valid, current, unexpired, and unrevoked registry identification card as required in these rules.

(7) A marihuana delivery employee shall carry a physical or electronic copy of all of the following information and shall make these records available to the agency upon request:

(a) The employee identification number required under these rules.

(b) The marihuana sales location licensee license number.

(c) The address of the marihuana sales location licensee.

(d) Contact information of the marihuana sales location licensee.

(e) A copy of the marihuana sales location marihuana delivery log as required in subrule (13) of this rule.

(8) A marihuana delivery employee shall have access to a secure form of communication with the marihuana sales location licensee, such as a cellular telephone, at all times in the vehicle or on his or her person.

(9) A marihuana delivery employee shall comply with all the following:

(a) During marihuana delivery, the marihuana delivery employee shall maintain a physical or electronic copy of each marihuana delivery request and shall make the marihuana delivery request available to the agency upon request.

(b) A marihuana delivery employee shall not leave a marihuana product in an unattended motor vehicle unless the motor vehicle is locked and equipped with an active vehicle alarm system.

(c) A marihuana delivery employee's vehicle must contain a global positioning system (GPS) device for identifying the geographic location of the delivery vehicle.- The device must be either permanently or temporarily affixed to the delivery vehicle while the delivery vehicle is in operation, and the device must remain active and in the possession of the delivery employee at all times during delivery. At all times, the marihuana sales location must be able to identify the geographic location of all marihuana delivery vehicles and marihuana delivery employees who are making marihuana deliveries for the marihuana sales location and shall provide that information to the agency upon request.

(d) A marihuana delivery employee shall not carry marihuana product in the delivery vehicle with a value in excess of $5,000.00 at any time. The value of marihuana products carried in the delivery vehicle for which a delivery order was not received and processed by the licensed retailer prior to the delivery employee departing from the marihuana sales location may not exceed $3,000.00. For the purposes of this subrule, the value of marihuana products must be determined using the current retail price of all marihuana products carried by, or within the delivery vehicle of, the marihuana delivery employee.

(e) A marihuana delivery employee of a marihuana sales location may not be employed as a marihuana delivery employee for more than 1 marihuana sales location.

(f) A marihuana delivery employee shall not leave the marihuana sales location with marihuana products without at least 1 delivery order that has already been received and processed by the marihuana sales location.

(g) Before leaving the marihuana sales location, the marihuana delivery employee must have a delivery inventory ledger, which may be maintained electronically, of all marihuana products provided to him or her. For each marihuana product, the delivery inventory ledger must include the following:

(i) The type of marihuana product.

(ii) The brand name.

(iii) The retail value.

(iv) The tag number associated with the product in the statewide monitoring system.

(v) The weight, volume, or other accurate measure of the marihuana product.

(h) All marihuana product prepared for an order that was received and processed by the marihuana sales location prior to the marihuana delivery driver departing from the marihuana sales location must be clearly identified on the inventory ledger.

(i) After each delivery, the delivery inventory ledger must be updated to reflect the current inventory in possession of the marihuana delivery employee.

(j) The marihuana delivery employee shall maintain a log that includes all stops from the time he or she leaves the marihuana sales location to the time that he or she returns to the marihuana sales location, and the reason for each stop. The log must be turned in to the marihuana sales location when the marihuana delivery employee returns to the marihuana sales location. The marihuana sales location must maintain the log for a minimum of 1 year from the date of delivery and make it available upon request by the agency. The log may be maintained electronically.

(k) Immediately upon request by the agency the marihuana delivery employee shall provide all of the following:

(i) All delivery inventory ledgers from the time the marihuana delivery employee left the marihuana sales location up to the time of the request.

(ii) All delivery request receipts for marihuana product carried by the driver, in the delivery vehicle, or any deliveries that have already been made to customers.

(iii) The log of all stops from the time the marihuana delivery employee left the marihuana sales location up to the time of the request.

(l) If a marihuana delivery employee does not have any delivery request to be performed for a 30-minute period, the marihuana delivery employee shall not make any additional deliveries and shall return to the marihuana sales location. Upon returning to the marihuana sales location, all undelivered marihuana products must be returned to inventory and all necessary inventory and statewide monitoring system records must be updated as appropriate.

(10) A marihuana retailer licensed under the MRTMA, in making deliveries, shall not transport more than 15 ounces of marihuana or more than 60 grams of marihuana concentrate at 1 time pursuant to section 11 of the MRTMA, MCL 333.27961.

(11) A marihuana sales location shall ensure that marihuana deliveries are completed in a timely and efficient manner as provided on the marihuana delivery request and log. All marihuana deliveries must occur within the business hours of the marihuana sales location. Marihuana product for marihuana delivery must be stored within a secured compartment that is clearly marked and latched or locked in a manner to keep all contents secured within.

(12) The process of marihuana delivery begins when the marihuana delivery employee leaves the marihuana sales location's licensed marihuana business with the marihuana product for delivery. The process of marihuana delivery ends when the delivery employee returns to the marihuana sales location's licensed marihuana business after delivering the marihuana product to the marihuana customer.

(13) A marihuana sales location shall maintain a record of each delivery of a marihuana product in a marihuana delivery log, which may be a hard copy or electronic format, and make the marihuana delivery log available to the agency upon request. For each delivery, the marihuana delivery log must record all of the following:

(a) The date and time that the delivery began and ended.

(b) The name of the marihuana delivery employee.

(c) The amount of marihuana product allowed to be possessed for delivery.

(d) The tag number of the marihuana product and the name of the strain of that marihuana product.

(e) The signature of the individual who accepted delivery.

(14) A marihuana sales location shall notify the agency, state police, or local law enforcement of any theft, loss of marihuana product, or criminal activity as provided in these rules. A marihuana sales location shall report to the agency and law enforcement, if applicable, any other event occurring during marihuana delivery that violates the marihuana delivery procedure as provided in this rule, including marihuana delivery vehicle accidents and diversion of marihuana product.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.207a Contactless and limited contact transactions.

Rule 7a. (1) A marihuana sales location may designate an area for contactless or limited contact transactions unless prohibited by an ordinance adopted by the municipality where the marihuana sales location is located.

(2) Contactless or limited contact transaction include, but are not limited to the following:

(a) Curbside service.

(b) Drive through window service.

(3) A marihuana sales location may accept online or telephonic orders for marihuana product and payment for the order that will be picked up at the marihuana sales location.

(4) The designated area for contactless or limited contact transactions must be identified in the marihuana business location plan.

(5) A marihuana sales location operating a contactless or limited contact transaction must have a written standard operating procedure in place and be made available to the agency upon request.

(6) Contactless or limited contact transactions must be completed during normal business hours.

(7) A marihuana sales location using a designated area for contactless or limited contact transactions must have in place an anti-theft policy, procedure, or automatic capability.

(8) The designated area for contactless or limited contact transactions must comply with R 420.209.

(9) The contactless and limited contact transaction must comply with R 420.505 and R 420.506.

(10) Marihuana being transferred during a contactless or limited contact transaction must be in an opaque bag and the contents must not be visible to the general public upon pick up.

History: 2022 MR 5, Eff. Mar. 7, 2022.

R 420.208 Building and fire safety.

Rule 8. (1) An applicant's proposed marihuana business and a licensee's marihuana business are subject to inspection by a state building code official, state fire official, or code enforcement official to confirm that no health or safety concerns are present.

(2) A state building code official, or his or her authorized designee, may conduct prelicensure and post-licensure inspections to ensure that applicants and licensees comply with the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531; the skilled trades regulation act, 2016 PA 407, MCL 339.5101 to 339.6133; 1967 PA 227, MCL 408.801 to 408.824; and 1976 PA 333, MCL 338.2151 to 338.2160.

(3) An applicant or licensee shall not operate a marihuana business unless a permanent certificate of occupancy has been issued by the appropriate enforcing agency. A temporary certificate of occupancy may be accepted, at the discretion of the agency. Before a certificate of occupancy is issued, work must be completed in accordance with the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531. An applicant or licensee shall comply with both of the following:

(a) An applicant or licensee shall obtain a building permit for any building utilized as a proposed marihuana business or marihuana business as provided in the acts and these rules. The issuance, enforcement, and inspection of building permits under the acts remains with the governmental entity having jurisdiction under the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531.

(b) An applicant or licensee shall obtain a building permit for a change of occupancy for an existing building to be utilized as a proposed marihuana business or marihuana business as provided in the acts and these rules.

(4) An applicant or licensee shall not operate a marihuana business unless the proposed marihuana business or marihuana business has passed the prelicensure fire safety inspection by the BFS. The state fire marshal, or his or her authorized designee, may conduct prelicensure and post-licensure inspections of a marihuana business. An applicant or licensee shall comply with all of the following:

(a) A BFS inspection may be conducted at any reasonable time to ensure fire safety compliance. A BFS inspection may be annual or biannual and may result in the required installation of fire suppression devices or other means necessary for adequate fire safety pursuant to state standards.

(b) The BFS may require a marihuana business to obtain operational permits, including, but not limited to, any of the following:

(i) Carbon dioxide systems used in beverage dispensing applications, amended for cultivation use and extraction.

(ii) Compressed gases.

(iii) Combustible fibers.

(iv) Flammable and combustible liquids.

(v) Fumigation and insecticidal fogging.

(vi) Hazardous materials.

(vii) High piled storage (high rack system cultivation).

(viii) Liquefied petroleum (LP) gas.

(c) For specific installation or systems, BFS may require marihuana businesses to obtain construction permits, including, but not limited to, any of the following:

(i) Building construction.
(ii) Electrical, mechanical, plumbing, boiler, and elevator.
(iii) Compressed gases.
(iv) Flammable and combustible liquids.
(v) Hazardous materials.
(vi) Liquified petroleum (LP) gas.
(vii) Automatic fire extinguishing/suppression systems.
(viii) Fire alarm and detections systems.
(ix) Related equipment found during fire safety inspections.

(5) The state fire marshal, or their authorized designee, may conduct a BFS fire safety inspection of a marihuana business, at any reasonable time to ensure compliance with the NFPA 1, 2021 edition, entitled "Fire Code," which is adopted by reference in R 420.202. A licensee shall comply with the NFPA 1 as adopted and the following additional requirements:

(a) Ductwork must be installed in accordance with the Michigan mechanical code, R 408.30901 to R 408.30998.

(b) Suppression systems outlined in NFPA 1 and the Michigan mechanical code, R 408.30901 to R 408.30998, must be installed if required to meet the suppression needs within a marihuana establishment.

(c) Producers, cultivators, laboratories, marihuana microbusinesses, and class A marihuana microbusinesses shall implement appropriate exhaust ventilation systems to mitigate noxious gasses or other fumes used or created as part of any production process or operations. Exhaust and ventilation equipment must be appropriate for the hazard involved and must comply with NFPA 1 and Michigan mechanical code, R 408.30901 to R 408.30998.

(6) In addition to meeting all the requirements in subrules (1) to (5) of this rule, cultivators, producers, marihuana microbusinesses**,** class A marihuana microbusinesses, and designated consumption establishments shall also comply with all of the following:

(a) Permit the agency or its authorized agents, or state fire marshal or his or her authorized designee, to enter and inspect a cultivator, producer, marihuana microbusiness, class A marihuana microbusiness, and designated consumption establishments at any reasonable time.

(b) Have a fire safety inspection conducted, in addition to any inspections required under the acts and these rules, if any of the following occur:

(i) Modifications to the grow areas, rooms and storage, extraction equipment and process rooms, or marihuana-infused product processing equipment within a marihuana business.
(ii) Changes in occupancy.
(iii) Material changes to a new or existing cultivator, producer, marihuana microbusiness**,** class A marihuana microbusiness, or designated consumption establishment including changes made prelicensure and post-licensure.
(iv) Changes in extraction methods and processing or grow areas and building structures.

(c) Ensure that extractions using compressed gases of varying materials including, but not limited to, butane, propane, and carbon dioxide that are used in multiple processes in cultivation or extraction meet all of the following:

(i) Flammable gases of varying materials may be used in multiple processes in cultivation or extraction and must meet the requirements in NFPA 58 and the international fuel gas code.

(ii) Processes that extract oil from marihuana plants and marihuana products using flammable gas or flammable liquid must have leak or gas detection measures, or both. All extraction

equipment used in the marihuana business and equipment used in the detection of flammable or toxic gases, or both, must be approved by the BFS and may require construction permits.

(iii) Marihuana businesses that have exhaust systems must comply with the NFPA 1 and the Michigan mechanical code, R 408.30901 to R 408.30998.

(7) The requirements of this rule do not apply to a marihuana event organizer applicant or licensee under the MRTMA.

(8) An applicant for a temporary marihuana event is subject to review and inspection, if applicable, by BFS, which includes, but is not limited to, all of the following:

(a) A site plan must be provided. BFS shall review the site plan in accordance with the NFPA 1.

(b) The temporary marihuana event location may be subject to a physical inspection, as determined by the agency.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.209 Security measures; required plan; video surveillance system.

Rule 9. (1) An applicant for a marihuana license to operate a proposed marihuana business shall submit a security plan that demonstrates, at a minimum, the ability to meet the requirements of this rule.

(2) A licensee shall ensure that any person at the marihuana business, except for employees of the licensee, are escorted at all times by the licensee or an employee of the licensee when in the limited access areas and restricted access areas at the marihuana business.

(3) A licensee shall securely lock the marihuana business, including interior rooms as required by the agency, windows, and points of entry and exits, with commercial-grade, nonresidential door locks or other electronic or keypad access. Locks on doors that are required for egress must meet the requirements of NFPA 1, local fire codes, and the Michigan building code, R 408.30401 to R 408.30499.

(4) A licensee shall maintain an alarm system at the marihuana business. Upon request, a licensee shall make available to the agency all information related to the alarm system, monitoring, and alarm activity.

(5) A licensee shall have a video surveillance system that, at a minimum, consists of digital or network video recorders, cameras capable of meeting the recording requirements in this rule, video monitors, digital archiving devices, and a color printer capable of delivering still photos.

(6) A licensee shall ensure the video surveillance system does all the following:

(a) Records, at a minimum, the following areas:

(i) Any areas where marihuana products are weighed, packed, stored, loaded, and unloaded for transportation, prepared, or moved within the marihuana business.

(ii) Limited access areas and security rooms. Transfers between rooms must be recorded.

(iii) Areas storing a surveillance system storage device with not less than 1 camera recording the access points to the secured surveillance recording area.

(iv) The entrances and exits to the building, which must be recorded from both indoor and outdoor vantage points.

(v) The areas of entrance and exit between marihuana businesses at the same location if applicable, including any transfers between marihuana businesses.

(vi) Point of sale areas where marihuana products are sold and displayed for sale.

(vii) Areas where marihuana or marihuana products are destroyed.

(b) Records images effectively and efficiently of the area under surveillance with a minimum of 720p resolution.

(7) A licensee shall ensure that each camera is permanently mounted and in a fixed location. Each camera must be placed in a location that allows the camera to clearly record activity occurring within 20 feet of all points of entry and exit on the marihuana business and allows for the clear and certain identification of any person, including facial features, and activities, including sales or transfers, in all areas required to be recorded under these rules.

(8) A licensee shall have sufficient lighting to meet the video surveillance system requirements of this rule.

(9) A licensee shall have cameras that record when motion is detected at the marihuana business and record images that clearly and accurately display the time and date.

(10) A licensee shall secure the physical media or storage device on which surveillance recordings are stored in a manner to protect the recording from tampering or theft.

(11) A licensee shall keep surveillance recordings for a minimum of 30 calendar days, except in instances of investigation or inspection by the agency in which case the licensee shall retain the recordings until the time as the agency notifies the licensee that the recordings may be destroyed.

(12) Surveillance recordings of the licensee are subject to inspection by the agency and must be kept in a manner that allows the agency to view and obtain copies of the recordings at the marihuana business immediately upon request. The licensee shall also send or otherwise provide copies of the recordings to the agency upon request within the time specified by the agency.

(13) A licensee shall maintain a video surveillance system equipped with a failure notification system that provides notification to the licensee of any interruption or failure of the video surveillance system or video surveillance system storage device.

(14) A licensee shall maintain a log of the recordings, which includes all of the following:

(a) The identity of the employee or employees responsible for monitoring the video surveillance system.

(b) The identity of the employee who removed any recording from the video surveillance system storage device and the time and date removed.

(c) The identity of the employee who destroyed any recording.

(15) The requirements of this rule do not apply to the following license types under the MRTMA:

(a) A designated consumption establishment applicant or licensee.

(b) A marihuana event organizer applicant or licensee.

(c) A temporary marihuana event applicant or licensee.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.210 Prohibitions.

Rule 10. (1) Except for designated consumption establishments or temporary marihuana events licensed under the MRTMA, a marihuana business must not have marihuana products that are not identified and recorded in the statewide monitoring system pursuant to these rules. A licensee shall not transfer or sell a marihuana product that is not identified in the statewide monitoring system pursuant to these rules.

(2) Except for a designated consumption establishment or temporary marihuana event licensed under the MRTMA, a marihuana business must not have any marihuana product without a batch number or identification tag or label pursuant to these rules. A licensee shall immediately tag,

identify, or record as part of a batch in the statewide monitoring system any marihuana product as provided in these rules.

(3) A licensee shall not reassign or subsequently assign a tag to another package that has been associated with a package in the statewide monitoring system.

(4) A licensee shall not allow a physician to conduct a medical examination or issue a medical certification document at a marihuana business for the purpose of obtaining a registry identification card.

(5) A violation of these rules may result in sanctions or fines, or both, in accordance with the acts and these rules.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.211 Marihuana product destruction and waste management.

Rule 11. (1) A marihuana product that is to be destroyed or is considered waste must be rendered into an unusable and unrecognizable form through grinding or another method as determined by the agency that incorporates the marihuana product waste with 1 or more of the following types of non-consumable solid waste so that the resulting mixture is not less than 50% non-marihuana product waste:

(a) Paper waste.

(b) Plastic waste.

(c) Cardboard waste.

(d) Food waste.

(e) Grease or other compostable oil waste.

(f) Fermented organic matter or other compost activators.

(g) Soil.

(h) Other waste approved in writing by the agency.

(2) Marihuana plant waste, including roots, stalks, leaves, and stems that have not been processed with a solvent must be rendered into an unusable and unrecognizable form through grinding or another method as determined by the agency that incorporates the marihuana plant waste with 1 or more of the following types of compostable waste so that the resulting mixture is not less than 50% non-marihuana plant waste:

(a) Food waste.

(b) Yard waste.

(c) Vegetable based grease or oils.

(d) Other compostable wastes approved by the agency.

(3) A licensee shall manage all waste that is hazardous waste pursuant to part 111 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.11101 to 324.11153.

(4) A marihuana product rendered unusable and unrecognizable and, therefore, considered waste, and marihuana plant waste must be recorded in the statewide monitoring system.

(5) A licensee shall not sell marihuana waste, marihuana plant waste, or marihuana products that are to be destroyed, or that the agency orders destroyed.

(6) A licensee shall dispose of marihuana product waste and marihuana plant waste in a secured waste receptacle using 1 or more of the following methods that complies with applicable state and local laws and regulations:

(a) A licensed municipal solid waste landfill.

(b) A registered composting facility that has specific approval under part 115 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.11501 to 324.11554, to accept the material.

(c) An anaerobic digester that has specific approval under part 115 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.11501 to 324.11554, to accept the material.

(d) An in-state municipal solid waste or hazardous waste incinerator that has been permitted under part 55 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.5501 to 324.5542.

(7) A licensee shall dispose of wastewater generated during the cultivation of marihuana and the processing of marihuana products in a manner that complies with applicable state and local laws and regulations.

(8) A licensee shall maintain accurate and comprehensive records regarding marihuana product waste, and marihuana plant waste that accounts for, reconciles, and evidences all waste activity related to the disposal. The agency may publish guidance on marihuana product waste management.

(9) As used in this rule, "unrecognizable" means marihuana product rendered indistinguishable from any other plant material.

(10) Under the MRMTA, a licensed marihuana microbusiness**,** class A marihuana microbusiness, or marihuana retailer who participates in a temporary marihuana event shall destroy and dispose of any marihuana product that is considered waste, and any marihuana plant waste, resulting from the licensee's activities during the event according to the applicable provisions in this rule.

(11) Except for the marihuana product waste specified in subrule (10) of this rule, a marihuana event organizer who holds a temporary marihuana event under the MRTMA is responsible for destroying and disposing of any marihuana product waste and marihuana plant waste that results from the event. All marihuana waste must be rendered unusable and unrecognizable and disposed of in accordance with this rule and in compliance with all applicable state and local laws and regulations.

(12) Under the MRMTA, a licensed designated consumption establishment shall destroy and dispose of any marihuana product left at the establishment that is considered waste and any marihuana plant waste, in accordance with this rule and in compliance with all applicable state and local laws and regulations. The designated consumption establishment shall maintain a log of any marihuana product that is considered waste, and marihuana plant waste, which must include a description of the waste and the amount and the manner in which it was disposed. The designated consumption establishment licensee shall make the log available to the agency upon request.

(13) Nothing in these rules prohibits a grower, with agency approval, from disposing of marihuana plant waste as compost feedstock or in another organic waste method at their marihuana business in compliance with part 111 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.11101 to 324.11153.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.212 Storage of marihuana product.

Rule 12. (1) All marihuana products must be stored at a marihuana business in a secured limited access area or restricted access area and must be identified and tracked consistently in the statewide monitoring system under these rules.

(2) All containers used to store marihuana products for transfer or sale between marihuana businesses must be clearly marked, labeled, or tagged, if applicable, and enclosed on all sides in secured containers. The secured containers must be latched or locked in a manner to keep all contents secured within. Each secured container must be identified and tracked in accordance with the acts and these rules.

(3) All chemicals or solvents must be stored separately from marihuana products and kept in a closed container in locked storage areas.

(4) Marihuana-infused products, edible marihuana products, or materials used in direct contact with the marihuana-infused products or edible marihuana products, must have separate storage areas from toxic or flammable materials.

(5) Marihuana products not in final packaging must be stored separately from other types of marihuana product in compliance with these rules.

(6) A marihuana sales location shall store all marihuana products for transfer or sale behind a counter or other barrier separated from stock rooms.

(7) A laboratory shall establish an adequate chain of custody and instructions for sample and storage requirements.

(8) A licensee shall ensure that any stock or storage room meets the security requirements of these rules and any other applicable requirements in the acts and these rules.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.213 Marihuana microbusiness and class A marihuana microbusiness operation.

Rule 13. As applicable, a marihuana microbusiness and class A marihuana microbusiness licensee shall operate the corresponding areas of a marihuana microbusiness or class A marihuana microbusiness in compliance with the operation requirements of a marihuana retailer, a marihuana grower, or a marihuana processor as provided for in MRTMA and these rules. A marihuana microbusiness and class A marihuana microbusiness, if engaging in delivery, shall operate in accordance with R 420.207.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.214 Transfer of marihuana between equivalent licenses.

Rule 14. (1) The agency may authorize licensees who hold equivalent licenses under the MRTMA with common ownership to transfer marihuana product between the inventory of their marihuana facility and the inventory of their marihuana establishment.

(2) The following licensees who hold the following equivalent licenses with common ownership may accept the transfer of medical marihuana product under subrule (1) of this rule:

(a) Class A marihuana growers.

(b) Class B marihuana growers.

(c) Class C marihuana growers.

(d) Marihuana processors.

(e) Marihuana retailers.

(3) The agency shall publish a specific start date, end date, and other requirements for the transfer of marihuana product between equivalent licenses.

(4) A licensee shall transfer marihuana product between equivalent licenses with common ownership in accordance with these rules and any requirements published by the agency.

(5) A licensee shall track the transfer of product between equivalent licenses with common ownership in the statewide monitoring system in accordance with these rules and any requirements published by the agency. Marihuana plants transferred pursuant to this rule count towards the authorized total amount of marihuana plants for a licensed cultivator.

(6) Marihuana product transferred to an equivalent license with common ownership may only be sold or transferred in accordance with the acts and these rules.

(7) A licensee in receipt of transferred marihuana product shall track the marihuana product sold or transferred in accordance with these rules.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.214a Internal analytical testing.

Rule 14a. (1) A licensee may designate a space to perform internal analytical testing on marihuana or a marihuana product grown or produced by the marihuana business, if all of the following are met:

(a) The designated internal analytical testing space is fully partitioned from all other licensed activities at the marihuana business.

(b) The designated internal analytical testing space complies with all of the requirements of R 420.209.

(c) If a licensee with a designated space for internal analytical testing is co-located with another licensee, product from only 1 license may be in the designated space at a time.

(d) Internal analytical testing may be performed only on a product grown, harvested, or processed by licensees under common ownership.

(2) All marihuana or a marihuana product used for internal analytical testing must be identified, recorded, and tracked consistently in the statewide monitoring system.

(3) All marihuana or a marihuana product used for internal analytical testing must have a batch number or an identification tag or label as assigned by the statewide monitoring system affixed to it.

(4) No marihuana or marihuana product other than samples for testing may be stored in the internal analytical testing space.

(5) Marihuana or a marihuana product that has undergone internal analytical testing must be disposed of in compliance with R 420.211.

(6) Results of internal analytical testing may not be entered into the statewide monitoring system.

(7) Any batch of marihuana or a marihuana product that has undergone internal analytical testing must undergo full safety compliance testing, with passing test results entered into the statewide monitoring system, prior to being sold or transferred.

(8) Any batch of marihuana or a marihuana product that has undergone internal analytical testing must undergo full safety compliance testing, with failing test results entered into the statewide monitoring system, prior to making a request for remediation.

(9) The results of internal analytical testing may not be used to label a product under R 420.504.

History: 2022 MR 5, Eff. Mar. 7, 2022.

R 420.214b Adverse reactions.

Rule 14b. (1) A licensee shall notify the agency within 1 business day of becoming aware or within 1 business day of when the licensee should have been aware of any adverse reactions to a marihuana product sold or transferred by any licensee.

(2) A licensee shall enter into the statewide monitoring system within 1 business day of becoming aware of or within 1 business day of when the licensee should have been aware of any adverse reactions to a marihuana product sold or transferred by any licensee.

History: 2022 MR 5, Eff. Mar. 7, 2022.

R 420.214c Product returns.

Rule 14c. (1) A marihuana sales location may accept the return of marihuana product that is reported to have caused an adverse reaction or is determined to be defective.

(2) A marihuana sales location must have a written policy for the return of marihuana product that contains, at a minimum, the following:

(a) Product returned to a marihuana sales location must be tracked consistently in the statewide monitoring system as waste in compliance with R 420.211.

(b) Product returned to a marihuana sales location must be destroyed in compliance with R 420.211 within 90 calendar days of when the marihuana business became aware of the fact that the product must be destroyed.

(c) Product returned to a marihuana sales location cannot be re-sold, re-packaged, or otherwise transferred to a customer or another marihuana business.

(d) Product returned to a marihuana sales location is prohibited from being returned to the marihuana sales location by way of a delivery driver.

(e) A marihuana sales location that does not comply with these rules may be subject to disciplinary proceedings.

(f) A marihuana retailer may return a marihuana product that is past its expiration date to the marihuana processor who produced the marihuana product for destruction instead of destroying the marihuana product.

History: 2022 MR 5, Eff. Mar. 7, 2022.

R 420. 215 Severability.

Rule 15. If any rule or subrule of these rules, in whole or in part, is found to be invalid by a court of competent jurisdiction, such decision will not affect the validity of the remaining portion of these rules.

History: 2020 AACS.

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

MARIJUANA REGULATORY AGENCY

MARIHUANA SAMPLING AND TESTING

(By authority conferred on the executive director of the marijuana regulatory agency by section 206 of the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27206, sections 7 and 8 of the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27957 and 333.27958, and Executive Reorganization Order No. 2019-2, MCL 333.27001)

R 420.301 Definitions.

Rule 1. (1) As used in these rules:

(a) "Action limit" means the maximum permissible level of a contaminant in marihuana product allowable by the agency.

(b) "Acts" refers to the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801, and the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27951 to 333.27967, when applicable.

(c) "Agency" means the marijuana regulatory agency.

(d) "Batch" means all marihuana product of the same variety that has been processed together and exposed to substantially similar conditions throughout processing.

(e) "Cultivator" refers to a grower under the medical marihuana facilities licensing act or a marihuana grower under the Michigan Regulation and Taxation of Marihuana Act, or both.

(f) "Employee" means, except as otherwise provided in these rules, a person performing work or service for compensation. "Employee" does not include an individual providing trade or professional services who is not normally engaged in the operation of a marihuana establishment.

(g) "Final form" means the form a marihuana product is in when it is available for sale by a marihuana sales location not including consumer packaging. For marihuana products intended for inhalation, "final form" means the marihuana concentrate in an e-cigarette or a vaping device.

(h) "Good agricultural collection practices" or "GACP-GMP" means the World Health Organization's or the American Herbal Products Association's guidelines regarding the safety, efficacy**,** and sustainability of medicinal plant material being used in herbal medicines.

(i) "Good manufacturing practices" or "GMP" means the Food and Drug Administration's formal regulations regarding the design, monitoring, control, and maintenance of manufacturing processes and facilities. They are designed to ensure that products manufactured are to specific requirements including identity, strength, quality, and purity.

(j) "Harvest batch" means a designated quantity of harvested marihuana, all of which is identical in strain and has been grown and harvested together and exposed to substantially similar conditions throughout cultivation.

(k) "Immature plant" means a nonflowering marihuana plant that is no taller than 8 inches from the growing or cultivating medium and no wider than 8 inches produced from a cutting, clipping, tissue culture, or seedling that is in a growing or cultivating medium or in a growing or cultivating container.

(l) “Inactive ingredients” means binding materials, dyes, preservatives, flavoring agents, and any other ingredient that is not derived from the plant *Cannabis sativa L.*

(m) “Laboratory” refers to both a safety compliance facility under the medical marihuana facilities licensing act and a marihuana safety compliance facility under the Michigan Regulation and Taxation of Marihuana Act.

(n) “Limit of quantitation” or “LOQ” means the minimum concentration or mass of an analyte in a given matrix that can be reported as a quantitative result.

(o) “Marihuana business” refers to a marihuana facility under the medical marihuana facilities licensing act or a marihuana establishment under the Michigan Regulation and Taxation of Marihuana Act, or both.

(p) “Marihuana establishment” means a ~~e~~ a marihuana grower, marihuana safety compliance facility, marihuana processor, marihuana microbusiness, marihuana retailer, marihuana secure transporter, marihuana designated consumption establishment, or any other type of marihuana-related business licensed by the agency under the Michigan Regulation and Taxation of Marihuana Act.

(q) “Marihuana facility” means a location at which a licensee is licensed to operate under the medical marihuana facilities licensing act.

(r) “Marihuana product” means marihuana or a marihuana-infused product, or both, as those terms are defined in the act unless otherwise provided for in these rules.

(s) “Marihuana sales location” refers to a provisioning center under the medical marihuana facilities licensing act or a marihuana retailer under the Michigan Regulation and Taxation of Marihuana Act, or both.

(t) “Marihuana tracking act” means the marihuana tracking act, 2016 PA 282, MCL 333.27901 to 333.27904.

(u) “Medical marihuana facilities licensing act” or “MMFLA” means the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801.

(v) “Michigan Regulation and Taxation of Marihuana Act” or “MRTMA” means the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27951 to 333.27967.

(w) “Package tag” means an RFID tag supplied through the statewide monitoring system for the purpose of identifying a package containing a marihuana product.

(x) “Plant tag” means an RFID tag supplied through the statewide monitoring system for the purpose of identifying an individual marihuana plant.

(y) “Pre-test” means to perform full compliance testing on samples, without reporting the results to the agency, and reporting results of subsequent testing to the agency.

(z) “Proficiency test” means a test that determines the performance of individual laboratories for specific tests or measurements and is used to monitor laboratories’ performance.

(aa) “Producer” refers to both a processor under the medical marihuana facilities licensing act and a marihuana processor under the Michigan Regulation and Taxation of Marihuana Act.

(bb) “Production batch” means a designated quantity of marihuana product, all of which was processed together, is homogeneous, identical in color, flavor, and other characteristics, and was processed under similar conditions throughout processing.

(cc) “These rules” means the administrative rules promulgated by the agency under the authority of the medical marihuana facilities licensing act, the marihuana tracking act, the Michigan Regulation and Taxation of Marihuana Act, and Executive Reorganization Order No. 2019-2, MCL 333.27001.

(dd) "Tag" or "RFID tag" means the unique identification number or Radio Frequency Identification (RFID) issued to a licensee by the statewide monitoring system for tracking, identifying, and verifying marihuana plants, marihuana products, and packages of marihuana product in the statewide monitoring system.

(ee) "Target analyte" means a non-marihuana inactive ingredient designated for analysis.

(2) Terms defined in the acts have the same meanings when used in these rules unless otherwise indicated.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.302 Adoption by reference.

Rule 2. (1) The following codes, standards, or regulations of nationally recognized organizations or associations are adopted by reference in these rules:

(a) AOAC International Official Methods of Analysis, 21st edition. Copies of the adopted provisions are available for inspection and distribution from the Association of Official Analytical Collaboration (AOAC) International, 2275 Research Boulevard, Suite 300, Rockville, Maryland, 20850, telephone number 1-800-379-2622, for the price of $870.00.

(b) National fire protection association (NFPA) standard 1, 2021 edition, entitled "Fire Code," is adopted by reference as part of these rules. Copies of the adopted provisions are available for inspection and distribution from the National Fire Protection Association, 1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts, 02169, telephone number 1-800-344-3555, for the price of $114.50.

(c) The International Organization for Standardization (ISO), ISO 22000 / ISO/TS 22002-1:2009, Food Safety Bundle, available for purchase at: https://webstore.ansi.org/Standards/ISO/ISO22000TS22002FoodSafety, for the price of $275.00.

(d) International Organization for Standardization (ISO), ISO/IEC 17025:2017, General Requirements for the Competence of Testing and Calibration Laboratories, available at: https://webstore.ansi.org/RecordDetail.aspx?sku=ISO%2fIEC+17025%3a2017, for the price of $162.00.

(e) International Organization for Standards (IS0), ISO/IEC 17065:2012, Conformity Assessment – Requirements for Bodies Certifying Products, Processes and Services, available at: https://webstore.ansi.org/Standards/ISO/ISOIEC170652012, for the price of $175.00.

(f) International Organization for Standards (IS0), ISO/IEC 17043:2010, Conformity Assessment – General Requirements for Proficiency Testing, available at: https://webstore.ansi.org/Standards/ISO/ISOIEC170432010, for the price of $200.00.

(2) The standards adopted in subrule (1)(a) to (d) of this rule are available for inspection and distribution at the agency, located at 2407 North Grand River Avenue, Lansing, Michigan, 48906. Copies of these standards may be obtained from the agency at the cost indicated in subrule (1)(a) to (d) of this rule, plus shipping and handling.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.303 Batch; identification and testing.

Rule 3. (1) A cultivator shall uniquely identify each immature plant batch with a single batch name and record the information in the statewide monitoring system. Each immature plant batch must consist of no more than 100 immature plants.

(2) A cultivator shall tag each individual plant that is greater than 8 inches in height from the growing or cultivating medium or more than 8 inches in width with an individual plant tag and record the identification information in the statewide monitoring system.

(3) A cultivator shall separate the plants as the plants go through different growth stages and ensure that the plant tag is always identified with the plant throughout the growing cycle so that all plants can be easily identified and inspected. A cultivator shall ensure that identification information is recorded in the statewide monitoring system in accordance with the acts, the marihuana tracking act, and these rules.

(4) A cultivator shall destroy the individual plant tag prior to packaging. Once a tagged plant is harvested, it is part of a harvest batch so that a sample of the harvest batch can be tested by a licensed laboratory as provided in R 420.30**4** and R 420.305. A cultivator shall separate the harvest batch by product type and quarantine the harvested batch from all other marihuana and marihuana products when the marihuana batch has test results pending. A harvest batch must be easily distinguishable from other harvest batches until the batch is broken down into packages. A cultivator may not combine harvest batches.

(5) Before the cultivator transfers or sells the marihuana product to a marihuana sales location, a sample of the harvest batch must be tested for all required safety tests by a licensed laboratory as provided in R 420.30**4** and R 420.305. All test results must indicate passed in the statewide monitoring system before the marihuana is packaged for sale. A marihuana product from harvest batches may not be transferred or sold until tested, packaged, and tagged as required under subrule (4) of this rule. A cultivator may not transfer or sell marihuana under this rule to a marihuana sales location if the package contains more than 1 harvest batch.

(6) A cultivator may transfer or sell marihuana to a producer without first being tested by a laboratory if the marihuana product will be processed. After the producer has processed the material, the producer shall have the sample tested for all required safety tests pursuant to R 420.30**4** and R 420.305. A producer that received a package under this rule that has not been processed may transfer that package to another producer without having the package first tested by a laboratory for extraction.

(7) After test results indicate ~~a~~ passed test for all required safety tests and the harvest batch is packaged, each package must have a package tag attached. A cultivator shall ensure this information is placed in the statewide monitoring system in accordance with the acts, the marihuana tracking act, and these rules.

(8) A cultivator shall not transfer or sell any marihuana product that does not have a package tag attached and is not recorded in the statewide monitoring system in accordance with the acts, the marihuana tracking act, and these rules.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.303a Producer and sales location packaging and testing requirements.

Rule 3a. (1) A producer shall give a marihuana product a new package tag anytime the marihuana product changes form or is incorporated into a different product.

(2) A producer of a marihuana product in its final form shall have the sample tested pursuant to R 420.304 and R 420.305. The producer shall quarantine products from all other products when

the product has test results pending. The producer shall not transfer or sell a marihuana product to a marihuana sales location until after test results entered into the statewide monitoring system indicate a passed result for all required safety tests. Nothing in this subsection prohibits a producer from transferring or selling a package in accordance with the remediation protocol provided by the agency and these rules.

(3) A marihuana sales location may sell or transfer a marihuana product only to a marihuana customer under both of the following conditions:

(a) The marihuana product has received passing results for all required safety tests in the statewide monitoring system.

(b) The marihuana product bears the label required under the acts and these rules for retail sale.

History: 2022 MR 5, Eff. Mar. 7, 2022.

R. 420.304 Sampling; testing.

Rule 4. (1) A laboratory shall test samples as provided in the acts and these rules.

(2) A laboratory shall collect samples of a marihuana product from another marihuana business, and that marihuana business shall not interfere or prevent the laboratory from complying with all of the following requirements:

(a) The laboratory shall physically collect the sample of the marihuana product from another marihuana business to be tested at the laboratory. A laboratory shall comply with all the following:

(i) The laboratory shall ensure that samples of the marihuana product are identified in the statewide monitoring system and placed in secured, sealed containers that bear the labeling required under these rules.

(ii) The route plan and manifest must be entered into the statewide monitoring system, and a copy must be carried in the transporting vehicle and presented to a law enforcement officer upon request.

(iii) The marihuana must be transported in 1 or more sealed containers and not be accessible while in transit.

(iv) The vehicle a laboratory is using to transport samples of marihuana product must not bear markings or other indication that it is carrying marihuana or a marihuana-infused product.

(b) Except otherwise required by the agency, the laboratory shall collect a sample size that is sufficient to complete all required analyses, and not less than 0.5% of the weight of the harvest batch.

(c) The maximum harvest batch is 50 pounds. At least 50% of the sample taken must be homogenized for testing. The agency may publish sample sizes for marihuana products being tested.

(d) For a marihuana concentrate a laboratory must take a sample increment of 0.25 grams. The laboratory must take the following number of increments based upon the production batch size:

(i) 12 increments for a production batch of 1 to 2 pounds.

(ii) 15 increments for a production batch of 2 to 3 pounds.

(iii) 18 increments for a production batch of 3 to 4 pounds.

(iv) 23 increments for a production batch of 4 to 10 pounds.

(v) 29 increments for a production batch greater than 10 pounds.

(e) For marihuana-infused products a laboratory must take the following number of units based upon the production batch size:

(i) 2 units for a production batch of up to 100 units.

(ii) 4 units for a production batch of 101 to 500 units.

(iii) 6 units for a production batch of 501 to 1000 units.

(iv) 8 units for a production batch of 1001 to 5000 units.

(v) 10 units for a production batch of 5001 to 10,000 units.

(vi) 12 units for a production batch greater than 10,001 units.

(f) The laboratory shall develop a statistically valid sampling method and have it approved by the agency to collect a representative sample from each batch of marihuana product. The laboratory shall have access to the entire batch for the purposes of sampling.

(g) An employee of the marihuana business from which marihuana product test samples are collected shall be physically present to observe the laboratory employee collect the sample of marihuana product for testing and ~~shall~~ ensure that the sample increments are taken from throughout the batch.

(h) An employee of a marihuana business shall neither assist the laboratory employee nor touch the marihuana product or the sampling equipment while the laboratory employee is obtaining the sample.

(i) After samples have been selected, both the employee of the marihuana business that had the samples collected and the employee from the laboratory shall sign and date the chain of custody form, attesting to the following sample information:

(i) Marihuana product name.

(ii) Weight of marihuana product.

(iii) All marihuana products and samples are correctly identified in the statewide monitoring system.

(iv) If the product test sample is obtained for a retest, the laboratory confirms that it is not accepting a product test sample that is prohibited from being retested.

(j) A marihuana business shall enter in the statewide monitoring system the marihuana product test sample that is collected by a licensed laboratory, including the date and time the marihuana product is collected and transferred. The laboratory shall enter into the statewide monitoring system the test results within 3 business days of test completion.

(k) If a testing sample is collected from a marihuana business for testing in the statewide monitoring system, that marihuana business shall quarantine the marihuana product that is undergoing the testing from any other marihuana product at the marihuana business. The quarantined marihuana product may not be packaged, transferred, or sold until passing test results are entered into the statewide monitoring system.

(l) Any marihuana product that a laboratory collects for testing from a licensee under this rule may not be transferred or sold to any other marihuana business other than the licensee from whom the sample was collected. This provision does not apply to a laboratory that engages another laboratory to perform certain safety tests on a subcontracted basis.

(m) A laboratory may collect additional sample material from the same licensee from which the original sample was collected for the purposes of completing the required safety tests as long as the requirements of this rule are met.

(n) The agency may publish guidance that must be followed by marihuana businesses for chain of custody documentation.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R. 420.305 Testing; laboratory requirements.

Rule 5. (1) A laboratory shall become accredited for all required safety tests in at least 1 matrix to the International Organization for Standardization (ISO), ISO/IEC 17025:2017, by an International Laboratory Accreditation Cooperation (ILAC) recognized accreditation body or by an entity approved by the agency within 1 year after the date the laboratory license is issued and agree to have the inspections, reports, and all scope documents sent to the agency.

(2) A laboratory shall use analytical testing methodologies for the required safety tests in subrule (3) of this rule that are based upon published peer-reviewed methods, have been validated for cannabis testing by an independent third party, and have been internally verified by the licensed laboratory according to Appendix J or K of Official Methods of Analysis authored by the Association of Official Analytical Collaboration (AOAC) International, with guidance from published cannabis standard method performance requirements where available. In the absence of published, peer reviewed, validated cannabis methods, method validation requirements of Appendix J or K of Official Methods of Analysis authored by the Association of Official Analytical Collaboration (AOAC) International must be met in full with guidance from published cannabis standard method performance requirements where available. The agency may monitor a laboratories analytical testing methodologies on an ongoing basis.

(3) A laboratory shall conduct the required safety tests specified in subdivisions (a) to (i) of this subrule on marihuana product that is part of the harvest batch or production batch as specified in R 420.303, except as provided in subrule (4) of this rule. The minimum testing portions to be used in compliance testing shall be consistent with the testing portions used during method validation. The agency may publish a guide indicating which of the following safety tests are required based on product type when the marihuana product has changed form:

(a) Potency analysis. All of the following apply to a potency analysis under this subdivision:

(i) In the preparation of samples intended for potency analysis, the laboratory may not adulterate or attempt to manipulate the total potency of the sample by any means, including by the addition of trichomes that were removed during the grinding and homogenization process.

(ii) All flower material used for potency testing must be representative of the product used by the end consumer and homogenized in such a way that it is representative of the way a consumer would be using the product. Kief must not be reintroduced to the flower sample during the homogenization process, unless fully validated to Appendix K of Official Methods of Analysis authored by the Association of Official Analytical Collaboration (AOAC) International.

(iii) Potency analysis performed just as the marihuana product is without any corrective factor taken for moisture content that includes concentrations of the following:

(A) Total tetrahydrocannabinol (THC), including reporting all cannabinoids that can be tested for using a method that meets the requirements of subrule 2 of this rule.

(B) Tetrahydrocannabinoic acid (THC-A).

(C) Total cannabidiol (CBD) including reporting all cannabinoids that can be tested for using a method that meets the requirements of subrule 2 of this rule.

(D) Cannabidiolic acid (CBD-A).

(E) Additional cannabinoids, which may be tested with approval from the agency.

(b) Inspection for foreign matter including powdery mildew, organic, and inorganic material.

(c) Microbial screening including an optimized incubation period for all non-molecular automated systems methods and all plating-based methods used to report quantitative total yeast and mold results.

(d) Chemical residue testing performed for the list of banned chemical residues and the required LOQs published by the agency.

(e) Heavy metals testing as required in this rule.

(f) Residual solvents for production batches of marihuana infused products and edible marihuana products. The agency shall publish a list of required residual solvents to be tested for and their action limits.

(g) Water activity.

(h) Mycotoxin screening if requested by the agency.

(i) Target analytes if requested by the agency. The agency shall publish a list of required target analytes to be tested for and their LOQs.

(4) All marihuana producers may become certified to GMP by a body accredited under ISO 17065. This accreditation may enable the licensee certain allowances with testing. The agency will publish those allowances and information on how to obtain approval for allowances. The standard used for certification for GMP must be American National Standards Institute (ANSI) accredited or equivalent.

(5) All marihuana cultivators may become certified to GACP-GMP by a body accredited under ISO 17065. This accreditation may enable the licensee certain allowances with testing. The agency will publish these allowances and information on how to obtain approval for allowances. The standard used for certification for GACP-GMP must be World Health Organization and American Herbal Products Association or equivalent.

(6) Except as otherwise provided in R 420.306, if a sample collected pursuant to R 420.304 or provided to a laboratory pursuant to these rules does not pass the required safety tests, the marihuana business that provided the sample shall destroy the entire batch from which the sample was taken and document the destruction of the sample using the statewide monitoring system pursuant to the acts and these rules within 90 calendar days.

(7) A laboratory shall conduct residual solvent testing on batches of marihuana concentrates and marihuana-infused products. The agency shall publish a list of required residual solvents to be tested for and their action limits.

(8) A laboratory shall maintain any marihuana samples for at least 30 calendar days after test completion and destroy the resulting waste in accordance with R 420.209.

(9) Potency shall include the following cannabinoid concentrations listed in subdivisions (a) to (f) of this subrule, subject to subdivisions (g) and (h) of this subrule:

(a) Total THC concentration.

(b) THC-A concentration.

(c) The following calculation must be used for calculating Total THC, where Σ is the sum and M is the mass or mass fraction of each THC isomer being reported or THC-A:

M Σ THC + (0.877 x M Σ THC-A) =Total THC

(d) Total CBD concentration.

(e) CBD-A concentration.

(f) Total CBD. The following calculation must be used for calculating Total CBD, where M is the mass or mass fraction of CBD and CBD-A:

M total CBD = M CBD + 0.877 x M CBD-A.

(g) For marihuana and marihuana concentrates**,** total THC and total CBD must be reported in percentages.

(h) For marihuana infused products**,** potency must be reported as milligrams of Total THC and Total CBD per gram.

(10) The agency shall publish a list of action limits for the required safety tests in subrule (3) of this rule, except for potency. A marihuana sample with a value that exceeds the published action limit is a failed sample. A marihuana sample that is at or below the action limit is a passing sample.

(11) For chemical residue and target analyte testing, the agency shall publish a list of quantification levels. Any result that exceeds the action limit is a failed sample.

(12) If a sample provided to a laboratory pursuant to this rule and R 420.304 passes the safety tests required under subrule (3) of this rule, the laboratory shall enter the information in the statewide monitoring system of passed test results within 3 business days of test completion. Passed test results must be in the statewide monitoring system for a batch to be released for immediate processing, packaging, and labeling for transfer or sale in accordance with the acts and these rules.

(13) A laboratory shall enter the results into the statewide monitoring system and file with the agency within 3 business days of test completion.

(14) All laboratories shall participate in the proficiency testing program established by the agency. A laboratory shall analyze proficiency test samples from any ISO 17043 accredited vendor on an annual basis unless the agency requests additional testing. The proficiency testing provider shall be accredited for all relevant tests required by the agency and by an accreditation body recognized under the International Laboratory Accreditation Cooperation (ILAC). All testing must use the same procedures with the same number of replicates, standards, testing analysts, and equipment as used for marihuana product testing. A laboratory shall successfully analyze 1 set of proficiency testing samples for all required analytes not less than annually. A laboratory shall have all proficiency testing results submitted directly to the agency from the vendor for review. All failed proficiency tests must include corrective action documentation and must be repeated until the laboratory obtains an acceptable result for all analytes proficiency test. Proficiency tests must be externally graded and results must be reported numerically and not as pass or fail results for all quantitative methods.

(15) The agency shall take immediate disciplinary action against any laboratory that falsifies records or does not comply with the provisions of this rule, including sanctions or fines, or both.

(16) A laboratory shall not do any of the following:

(a) Desiccate samples.

(b) Pre-test samples.

(c) Select the best or most desirable material from a batch for testing. All sample increments must have the same chances of being selected.

(d) Manipulate samples in any way that would alter the sample integrity or homogeneity of the sample.

(17) A laboratory shall comply with random compliance checks at the request of the agency. The agency or its authorized agents may collect a random sample of a marihuana product from a laboratory or designate another laboratory to collect a random sample of a marihuana product in a secure manner to test that sample for compliance pursuant to these rules.

(18) A laboratory may perform terpene analysis on a marihuana product by a method approved by the agency, and the method must be accredited on the same frequency as all required safety tests.

(19) A laboratory shall comply with investigations to ensure the health and safety of the public. At the request of the agency, a laboratory may be requested to perform testing as part of an investigation.

(20) The agency may request mycotoxin testing. A marihuana sample with a value that exceeds the published acceptable level is a failed sample. A marihuana sample that is below the acceptable value is a passing sample.

(21) Marihuana-infused products found to contain Salmonella spp. or Shiga toxin producing E. coli (STEC) must be reported to the agency, in a separate written communication, at the same time as the safety compliance test results are entered into the statewide monitoring system.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.305a Validations.

Rule 5a. (1) All validations must be submitted to the agency for approval with an acceptable proficiency test that meets the standards in R 420.305(14), where all required analytes are shown to have passed.

(2) Laboratories shall use microbial testing methodologies for the required safety tests in R 420.305 that are sourced from published peer reviewed methods, have been validated for cannabis testing by an independent third party, and have been internally verified by the licensed laboratory according to Appendix J of Official Methods of Analysis authored by the Association of Official Analytical Collaboration (AOAC) International, with guidance from published cannabis standard method performance requirements where available. In the absence of published, peer reviewed, validated cannabis methods, Appendix J of Official Methods of Analysis authored by the Association of Official Analytical Collaboration must be met in full with guidance from the cannabis standard method performance requirements where available. The agency shall approve the validated methodology used by the laboratory and confirm that it produces scientifically accurate results for each safety test it conducts. The agency may monitor a laboratory's microbial methodologies on an ongoing basis. All of the following apply to validated methodologies under this rule:

(a) All validations must be submitted to the agency for approval with an acceptable and graded external proficiency test by a third party, where all required analytes are shown to have passed.

(b) Validation protocols should perform inoculation of marihuana matrices with live organisms where feasible to ensure that both extraction and detection for the assay are tested. To further test the accuracy of the assay, probability of detection (POD) analyses, inclusivity, exclusivity, lot-to-lot stability, and robustness studies must be included in the validation studies.

(c) Methods adopted from a matrix specific standard method, inclusivity and exclusivity do not require a comprehensive reassessment, provided that there were no modifications to the methods, including, but not limited to, all of the following:

(i) Referenced media.

(ii) Primers.

(iii) Probes.

(iv) Antibodies.

(v) Critical chemistries that were not modified.

(d) Microbial methods must include environmental monitoring and quality control of all buffers, media, primers, and incubators.

History: 2022 MR 5, Eff. Mar. 7, 2022.

R 420.305b Quality assurance and quality control.

Rule 5b. (1) A laboratory must have a procedure for monitoring the validity of results.

(2) This monitoring must occur on an ongoing basis and be reviewed by the laboratory manager. The monitoring must include all of the following:

(a) Use of reference materials or quality control materials.

(b) A functional check or checks of measuring and testing equipment.

(c) Use of working standards and verification with control charts, where applicable.

(d) Intermediate checks on measuring equipment.

(e) Review of reported results.

(f) Intra-laboratory comparisons, which involve proficiency testing.

(3) A laboratory shall adhere to all required quality control procedures specified in the reference method or methods to ensure that routinely generated analytical data is scientifically valid and defensible and is of known and acceptable precision and accuracy.

(4) A laboratory shall have a written quality assurance manual that includes, but is not limited to, all of the following items:

(a) Laboratory organization and responsibilities.

(c) Field sampling procedures.

(d) Instrument and equipment preventative maintenance and calibration procedures.

(e) Data reduction, validation, reporting, and verification.

(f) Identification of laboratory errors, customer complaints, and corrective actions.

(5) A laboratory shall prepare a written description of its quality control activities, included as part of a quality control manual. All of the following items must be addressed in the quality control manual:

(a) Daily, weekly, monthly, and annual requirements.

(b) An analytical testing batch.

(c) All analytical testing runs must be bracketed with quality controls.

(6) Method specific quality control acceptance criteria, which must be followed.

(7) A laboratory shall have standard operating procedures for all sampling and testing performed.

(8) All standard operating procedures for the required safety tests in R 420.305 and for sampling and testing of marihuana and marihuana products shall conform to ISO/IEC 17025:2017 standards, Good Laboratory Practice Standards 40 CFR 160, and shall be approved by the agency prior to the performance of any safety tests.

(9) A laboratory shall maintain a quality control and quality assurance program that conforms to Good Laboratory Practice Standards 40 CFR 160 and ISO/IEC 17025:2017 standards and meets the requirements established by the agency.

History: 2022 MR 5, Eff. Mar. 7, 2022.

R 420.306 Testing marihuana product after failed initial safety testing and remediation.

Rule 6. (1) A laboratory may test marihuana product that has failed initial safety testing.

(2) A failed marihuana product must pass 2 separate tests with new samples consecutively to be eligible to proceed to sale or transfer.

(3) Products that failed testing for Aspergillus may be remediated after subsequent testing for mycotoxins in accordance with R 420.305(3)(h).

(4) The agency may publish a remediation protocol including, but not limited to, the sale or transfer of marihuana product after a failed safety test as provided in these rules.

(5) The marihuana business that provided the sample is responsible for all costs involved in a retest.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.307 Research and development testing.

Rule 7. (1) As used in this rule, "research and development testing" means optional testing performed before final compliance testing.

(2) Except for R 420.304(2)(b), when performing research and development testing, the laboratory must comply with these rules.

(3) Punitive action shall not be taken against a marihuana business for conducting research and development testing when permitted.

(4) The agency may publish guidance for research and development testing that must be followed by all marihuana businesses.

(5) All research and development testing must be entered into the statewide monitoring system.

(6) Research and development testing performed after compliance testing has been completed shall not replace safety compliance test results.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.308 Severability.

Rule 8. If any rule or subrule of these rules, in whole or in part, is found to be invalid by a court of competent jurisdiction, such decision will not affect the validity of the remaining portion of these rules.

History: 2020 AACS.

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

MARIJUANA REGULATORY AGENCY

MARIHUANA-INFUSED PRODUCTS AND EDIBLE MARIHUANA PRODUCT

(By authority conferred on the executive director of the marijuana regulatory agency by section 206 of the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27206, sections 7 and 8 of the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27957 and 333.27958, and Executive Reorganization Order No. 2019-2, MCL 333.27001)

R 420.401 Definitions.

Rule 1. (1) As used in these rules:

(a) "Acts" refers to the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801, and the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27951 to 333.27967, when applicable.

(b) "Agency" means the marijuana regulatory agency.

(c) "Edible marihuana product" means any marihuana-infused product containing marihuana that is intended for human consumption in a manner other than inhalation. Edible marijuana product does not include marihuana-infused products that are intended for topical application.

(d) "Employee" means a person performing work or service for compensation. "Employee" does not include individuals providing trade or professional services who are not normally engaged in the operation of a marihuana establishment.

(e) "Final form" means the form a marihuana product is in when it is available for sale by a marihuana sales location not including consumer packaging. For marihuana products intended for inhalation, final form means the marihuana concentrate in an e-cigarette or a vaping device.

(f) "Inactive ingredients" means binding materials, dyes, preservatives, flavoring agents, and any other ingredient that is not derived from the plant *Cannabis sativa L.*

(g) "Marihuana product" means marihuana or a marihuana-infused product, or both, as those terms are defined in the acts unless otherwise provided for in these rules.

(h) "Marihuana sales location" refers to a provisioning center under the medical marihuana facilities licensing act or a marihuana retailer under the Michigan Regulation and Taxation of Marihuana Act, or both.

(i) "Marihuana tracking act" means the marihuana tracking act, 2016 PA 282, MCL 333.27901 to 333.27904.

(j) "Medical marihuana facilities licensing act" or "MMFLA" means the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801.

(k) "Michigan Regulation and Taxation of Marihuana Act" or "MRTMA" means the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27951 to 333.27967.

(l) "Producer" refers to both a processor under the medical marihuana facilities licensing act and a marihuana processor under the Michigan Regulation and Taxation of Marihuana Act.

(m) "Records of formulation" means the documentation that includes at a minimum: the ingredients, recipe, processing in order to be shelf stable, Certificates of Analysis for any

ingredient used, and description of the process in which all ingredients are combined to produce a final package.

(n) "These rules" means the administrative rules promulgated by the agency under the authority of the medical marihuana facilities licensing act, the marihuana tracking act, the Michigan Regulation and Taxation of Marihuana Act, and Executive Reorganization Order No. 2019-2, MCL 333.27001.

(o) "Tag" or "RFID tag" means the unique identification number or Radio Frequency Identification (RFID) issued to a licensee by the statewide monitoring system for tracking, identifying, and verifying marihuana plants, marihuana products, and packages of marihuana product in the statewide monitoring system.

(2) Terms defined in the acts have the same meanings when used in these rules unless otherwise indicated.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.402 Adoption by reference.

Rule 2. (1) The following codes, standards, or regulations of nationally recognized organizations or associations are adopted by reference in these rules:

(a) National fire protection association (NFPA) standard 1, 2021 edition, entitled "Fire Code," is adopted by reference as part of these rules. Copies of the adopted provisions are available for inspection and distribution from the National Fire Protection Association, 1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts, 02169, telephone number 1-800-344-3555, for the price of $114.50.

(b) The International Organization for Standardization (ISO), ISO 22000 / ISO/TS 22002-1:2009, Food Safety Bundle, available for purchase at:
https://webstore.ansi.org/Standards/ISO/ISO22000TS22002FoodSafety, for the price of $275.00.

(c) International Organization for Standardization (ISO), ISO/IEC 17025:2017, General Requirements for the Competence of Testing and Calibration Laboratories, available at: https://webstore.ansi.org/RecordDetail.aspx?sku=ISO%2fIEC+17025%3a2017, for the price of $162.00.

(2) The standards adopted in subrule (1)(a) to (c) of this rule are available for inspection and distribution at the agency, located at 2407 North Grand River Avenue, Lansing, Michigan, 48906. Copies of these standards may be obtained from the agency at the cost indicated in subrule (1)(a) to (c) of this rule, plus shipping and handling.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.403 Requirements and restrictions on marihuana-infused products; edible marihuana product.

Rule 3. (1) A producer shall package and properly label marihuana-infused products before sale or transfer.

(2) Marihuana-infused products processed under these rules must be homogenous. The allowable variation for weight and THC and CBD concentrations between the actual results and the intended serving is to be + or – 15%. The agency shall publish guidelines for a producer to follow to verify the marihuana-infused product is homogeneous.

(3) A producer of marihuana-infused products shall list and record the THC concentration and CBD concentration of marihuana-infused products, as provided in R 420.305 and R 420.404, in the statewide monitoring system and indicate the THC concentration and CBD concentration on the label along with the tag identification as required under these rules.

(4) Marihuana-infused products that are part of a product recall are subject to all of the following requirements:

(a) Must be immediately pulled from production by the producer of the marihuana-infused product.

(b) Must be immediately removed from the sales area of a marihuana sales location.

(c) Must not be sold or transferred.

(5) Marihuana-infused products must be stored and secured as prescribed under these rules.

(6) All non-marihuana inactive ingredients must be clearly listed on the product label. Inactive ingredients must be approved by the FDA for the intended use, and the concentration must be less than the maximum concentration listed in the FDA Inactive Ingredient database for the intended use.

(7) A producer shall label all marihuana-infused product with all of the following:

(a) The name of the marihuana-infused product that includes a product modifier such as "marijuana product," "THC product," or "cannabis product" using the same or larger font than the product name.

(b) The ingredients**,** including excipients and diluents**,** of the marihuana-infused product, in descending order of predominance by weight.

(c) The net weight or net volume of the product.

(d) For an edible marihuana product, both of the following must be included:

(i) Allergen labeling as specified by the Food and Drug Administration (FDA), Food Allergen Labeling and Consumer Protection Act of 2004 (FALCPA), 21 USC 343.

(ii) If any health or nutritional claim is made, appropriate labeling as specified by the federal regulations regarding Food Labeling, 21 CFR part 101.

(e) The date the marihuana product was produced.

(8) A producer of edible marihuana product shall comply with all the following:

(a) Current Good Manufacturing Practice, Hazard Analysis, and Risk-Based Preventative Controls for Human Food, 21 CFR part 117.- Any potentially hazardous ingredients used to process shelf-stable edible marihuana products must be stored at 40 degrees Fahrenheit, 4.4 degrees Celsius, or below.

(b) Maintain and adhere to records of formulation and make them available to the agency upon request. These records at a minimum must include the recipe, any additional processing documentation that demonstrates the product to be shelf stable, and test results for all ingredients used.

(c) Provide annual employee training for all employees on safe food handling and demonstrate an employee's completion of this training by providing proof of food handler certification that includes documentation of employee food handler training, including, but not limited to, allergens and proper sanitation and safe food handling techniques. Any course taken pursuant to this rule must be conducted for not less than 2 hours and cover all of the following subjects:

(i) Causes of foodborne illness, highly susceptible populations, and worker illness.

(ii) Personal hygiene and food handling practices.

(iii) Approved sources of food.

(iv) Potentially hazardous foods and food temperatures.

(v) Sanitization and chemical use.

(vi) Emergency procedures, including, but not limited to, fire, flood, and sewer backup.

(d) Have an employee on site during the production of edible marijuana products who is certified as a Food Protection Manager.

(e) To ensure compliance with the safe preparation standards under this subrule, comply with 1 or more of the following:

(i) Current Good Manufacturing Practice, Hazard Analysis, and Risk-Based Preventative Controls for Human Food, 21 CFR part 117.

(ii) The International Organization for Standardization (ISO), ISO 22000/ISO/TS 22002-1 adopted by reference pursuant to R 420.402.

(f) If requested as provided in this subdivision, provide to the agency documentation to verify certifications and compliance with these rules. The agency may request in writing documentation to verify certifications and compliance with these rules.

(9) A producer of edible marihuana product may not:

(a) Produce an edible marihuana product in a shape or with a label that would appeal to minors aged 17 years or younger.

(b) Produce an edible marihuana product that is associated with or has cartoons, caricatures, toys, designs, shapes, labels, or packaging that would appeal to minors.

(c) Package edible marihuana products in a package that can be easily confused with a commercially available food product. The use of the word candy or candies on the packaging or labeling is prohibited.

(d) Produce edible marihuana products in the distinct shape of a human, animal, or fruit, or a shape that bears the likeness or contains characteristics of a realistic or fictional human, animal, or fruit, including artistic, caricature, or cartoon renderings. Edible marihuana products that are geometric shapes and fruit flavored are permissible.

(10) An edible marihuana product must be in opaque, child-resistant packages or containers that meet the effectiveness specifications outlined in 16 CFR 1700.15. An edible marihuana product containing more than 1 serving must be in a resealable package or container that meets the effectiveness specifications outlined in 16 CFR 1700.15.

(11) A producer shall not produce an edible marihuana product that requires time and temperature control for safety. The agency may publish validation guidance for shelf stable edible marihuana product. The agency may request to review the validation study for a shelf stable edible marihuana product. The end product must be a shelf stable edible marihuana product and state the following information:

(a) A product expiration date, upon which the edible marihuana product is no longer fit for consumption and after which it must be destroyed. Once a label with an expiration date has been affixed to an edible marihuana product, a licensee shall not alter that expiration date or affix a new label with a later expiration date. The expiration date must consider all the following:

(i) The quality and characteristics of the edible marihuana product.

(ii) The packaging of the edible marihuana product.

(iii) The customary conditions encountered by the edible marihuana product from product to sale.

(b) Any other information requested by the agency that is not inconsistent with the acts and these rules.

(12) This rule does not affect the application of any applicable local, state, or federal laws or regulations.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.404 Maximum THC concentration for marihuana-infused products.

Rule 4. A marihuana sales location shall not sell or transfer marihuana-infused products that exceed the maximum THC concentrations established by the agency by more than 10%. For the purposes of maximum THC concentrations for marihuana-infused products, the agency shall publish a list of maximum THC concentrations and serving size limits.

History: 2020 AACS.

R 420. 405 Severability.

Rule 5. If any rule or subrule of these rules, in whole or in part, is found to be invalid by a court of competent jurisdiction, such decision will not affect the validity of the remaining portion of these rules.

History: 2020 AACS.

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

MARIJUANA REGULATORY AGENCY

MARIHUANA SALE OR TRANSFER

(By authority conferred on the executive director of the marijuana regulatory agency by section 206 of the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27206, sections 7 and 8 of the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27957 and 333.27958, and Executive Reorganization Order No. 2019-2, MCL 333.27001)

R 420.501 Definitions.

Rule 1. (1) As used in these rules:

(a) "Acts" refers to the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801, and the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27951 to 333.27967**,** when applicable.

(b) "Administrative hold" means a status given to marihuana product by the agency during an investigation into alleged violations of the acts and these rules. This status includes no sale or transfer of the marihuana product until the hold is lifted.

(c) "Agency" means the marijuana regulatory agency.

(d) "Cultivator" means a grower under the medical marihuana facilities licensing act or a marihuana grower under the Michigan Regulation and Taxation of Marihuana Act, or both.

(e) "Designated consumption establishment" means a commercial space that is licensed by the agency and authorized to permit adults 21 years of age and older to consume marihuana products at the location indicated on the state license.

(f) "Employee" means a person performing work or service for compensation. "Employee" does not include individuals providing trade or professional services who are not normally engaged in the operation of a marihuana business.

(g) "Final form" means the form a marihuana product is in when it is available for sale by a marihuana sales location not including consumer packaging. For marihuana products intended for inhalation, final form means the marihuana concentrate in an e-cigarette or a vaping device.

(h)"Immature plant" means a nonflowering marihuana plant that is no taller than 8 inches from the growing or cultivating medium and no wider than 8 inches produced from a cutting, clipping, tissue culture, or seedling that is in a growing or cultivating medium or in a growing or cultivating container.

(i) "Internal product sample" means a sample of marijuana products that a cultivator, producer, or marihuana sales location transfers directly to an employee for the purpose of ensuring product quality and making determinations about whether to sell or transfer the marihuana product.

(j) "Laboratory" refers to a safety compliance facility under the medical marihuana facilities licensing act or a marihuana safety compliance facility under the Michigan Regulation and Taxation of Marihuana Act, or both.

(k) "Marihuana business" refers to a marihuana facility under the medical marihuana facilities licensing act or a marihuana establishment under the Michigan Regulation and Taxation of Marihuana Act, or both.

(l) “Marihuana customer” refers to a registered qualifying patient or registered primary caregiver under the medical marihuana facilities licensing act, or an individual 21 years of age or older under the Michigan Regulation and Taxation of Marihuana Act, or both.

(m) “Marihuana equivalent” means usable marihuana equivalent as that term is defined in section 3(o) of the Michigan Medical Marihuana Act, MCL 333.264243.

(n) “Marihuana establishment” means a location at which a licensee is licensed to operate a marihuana grower, marihuana safety compliance facility, marihuana processor, marihuana microbusiness, class A marihuana microbusiness, marihuana retailer, marihuana secure transporter, or any other type of marihuana related business licensed to operate by the agency under the Michigan Regulation and Taxation of Marihuana Act.

(o) “Marihuana facility” means a location at which a licensee is licensed to operate under the medical marihuana facilities licensing act.

(p) “Marihuana license” means a state operating license issued under the medical marihuana facilities licensing act, or a state license issued under the Michigan Regulation and Taxation of Marihuana Act, or both.

(q) “Marihuana product” means marihuana or a marihuana-infused product, or both, as those terms are defined in the acts unless otherwise provided for in these rules.

(r) “Marihuana sales location” refers to a provisioning center under the medical marihuana facilities licensing act, or a marihuana retailer, marihuana microbusiness, or class A marihuana microbusiness under the Michigan Regulation and Taxation of Marihuana Act, or both.

(**s**) “Marihuana tracking act” means the marihuana tracking act, 2016 PA 282, MCL 333.27901 to 333.27904.

(t) “Medical marihuana facilities licensing act” or “MMFLA” means the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801.

(u) “Michigan Medical Marihuana Act” means the Michigan Medical Marihuana Act, 2008 IL 1, MCL 333.26421 to 333.26430.

(v) “Michigan Regulation and Taxation of Marihuana Act” or “MRTMA” means the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27951 to 333.27967.

(w) “Package tag” means an RFID tag supplied through the statewide monitoring system for the purpose of identifying a package containing a marihuana product.

(x) “Plant” means that term as defined in section 102 of the MMFLA, MCL 333.27102, unless otherwise defined in these rules.

(y) “Producer” means a processor under the medical marihuana facilities licensing act or a marihuana processor under the Michigan Regulation and Taxation of Marihuana Act, or both.

(z) “These rules” means the administrative rules promulgated by the agency under the authority of the medical marihuana facilities licensing act, the marihuana tracking act, the Michigan Regulation and Taxation of Marihuana Act, and Executive Reorganization Order No. 2019-2, MCL 333.27001.

(aa) “Tag” or “RFID tag” means the unique identification number or Radio Frequency Identification (RFID) issued to a licensee by the statewide monitoring system for tracking, identifying, and verifying marihuana plants, marihuana products, and packages of marihuana products in the statewide monitoring system.

(bb) “Trade sample” means a sample of marihuana products that a cultivator or producer provides to licensees for the purpose of the licensee determining whether to purchase the marihuana product.

(2) Terms defined in the acts have the same meanings when used in these rules unless otherwise indicated.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.502 Tracking identification; labeling requirements; general.

Rule 2. (1) Each marihuana product~~s~~ sold or transferred must be clearly labeled with the tracking identification numbers assigned by the statewide monitoring system affixed, tagged, or labeled and recorded, and any other information required by the agency, the acts, and these rules.

(2) The agency may place an administrative hold on marihuana products, recall marihuana products, issue safety warnings, and require a marihuana business to provide informational material or notifications to a marihuana customer at the point of sale.

(3) A marihuana business shall not sell or transfer a marihuana product that has been placed on administrative hold, recalled, or ordered or otherwise required to be destroyed.

(4) A marihuana business shall not sell or a transfer marihuana product after the printed expiration date on the package. An expired marihuana product must be destroyed except as provided in R 420.214c(2)(f).

(5) Prior to selling or transferring a marihuana product, a marihuana business must verify in the statewide monitoring system, that the marihuana product has not been placed on an administrative hold, recalled, or ordered to be destroyed.

(6) A marihuana business shall destroy all product required to be destroyed for any reason within 90 calendar days of when the marihuana business became aware of the fact that the product must be destroyed.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.503 Marihuana plant; tracking requirements.

Rule 3. Before a marihuana plant is sold or transferred, a package tag must be affixed to the plant or plant container and enclosed in a tamper proof seal that includes all of the following information:

(a) Business or trade name, licensee number, and the RFID package tag assigned by the statewide monitoring system that is visible.

(b) Name of the strain.

(c) Date of harvest.

(d) Seed strain.

(e) Universal symbol.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.503a Sale or transfer of immature plant batches from a cultivator to a marihuana sales location.

Rule 3a. (1) A cultivator approved by the agency to sell or transfer immature plant batches to a marihuana sales location is not required to transfer the immature plant batches using a marihuana transporter.

(2) Immature plant batches transferred from a cultivator to a marihuana sales location are not required to undergo the testing required by R 420.304 and R 420.305.

History: 2022 MR 5, Eff. Mar. 7, 2022.

R 420.504 Marihuana product sale or transfer; labeling and packaging requirements.

Rule 4. (1) Before a marihuana product is sold or transferred to or by a marihuana sales location, the container, bag, or product holding the marihuana product must be sealed and labeled with all of the following information:

(a) The name and the state license number of the cultivator or producer, including business or trade name, and package tag as assigned by the statewide monitoring system.

(b)The name and the marihuana license number of the licensee that packaged the product, including business or trade name, if different from the producer of the marihuana product.

(c) Date of harvest, if applicable.

(d) Name of strain, if applicable.

(e) Net weight in United States customary or metric units.

(f) Concentration of Tetrahydrocannabinol (THC) and cannabidiol (CBD) as reported by the laboratory after potency testing along with a statement that the actual value may vary from the reported value by 10%.

(g) Activation time expressed in words or through a pictogram.

(h) Name of the laboratory that performed passing compliance testing on the product in final form and any test analysis date.

(i) The universal symbol for marihuana product published on the agency's website.

(j) A warning that includes all the following statements:

(i) "It is illegal to drive a motor vehicle while under the influence of marihuana."

(ii) "National Poison Control Center 1-800-222-1222."

(iii) For products being sold by a marihuana facility that exceed the maximum THC levels allowed for products sold under MRTMA, "For use by registered qualifying patients only. Keep out of reach of children."

(iv) For all other products, "For use by individuals 21 years of age or older or registered qualifying patients only. Keep out of reach of children."

(v) In clearly legible type and surrounded by a continuous heavy line: "WARNING: USE BY PREGNANT OR BREASTFEEDING WOMEN, OR BY WOMEN PLANNING TO BECOME PREGNANT, MAY RESULT IN FETAL INJURY, PRETERM BIRTH, LOW BIRTH WEIGHT, OR DEVELOPMENTAL PROBLEMS FOR THE CHILD."

(2) An edible marihuana product sold by a marihuana sales location must comply with R 420.403(7) to (10).

(3) An infused marihuana product sold by a marihuana sales location must comply with R 420.403(7).

(4) A marihuana sales location must make available to every customer at the time of sale a pamphlet measuring at least 3.5 inches by 5 inches, that includes, at minimum, the statement "National Poison Control Center Hotline 1-800-222-1222," and at least two of the following statements:

(a) Marijuana use during adolescence may affect the developing brain negatively by impairing thinking and problem solving.

(b) Marijuana use during adolescence may affect the developing brain negatively by impairing memory and learning.

(c) Marijuana use during adolescence may affect the developing brain negatively by impairing coordination.

(d) Marijuana use during adolescence may affect the developing brain negatively by impairing ability to maintain attention.

(e) Marijuana use during adolescence may impact performance in school.

(f) Marijuana use during adolescence may impact the risk of mental health issues.

(g) Marijuana use during adolescence may impact driving abilities.

(h) Marijuana use during adolescence may impact the potential for addiction.

(i) Any other statement as approved by the agency and published on the agency's website.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

Editor's Note: An obvious error in R 420.504 was corrected at the request of the promulgating agency, pursuant to Section 56 of 1969 PA 306, as amended by 2000 PA 262, MCL 24.256. The rule containing the error was published in *Michigan Register,* 2022 MR 5. The memorandum requesting the correction was published in *Michigan Register,* 2023 MR 23.

R 420.505 Sale or transfer; marihuana sales location.

Rule 5. (1) A marihuana sales location **s**hall verify all of the following prior to selling or transferring marihuana or a marihuana product to a marihuana customer:

(a) The marihuana product has not been placed on administrative hold, recalled, or ordered or otherwise required to be destroyed.

(b) The marihuana product is not past its expiration date.

(c) The marihuana customer presented his or her valid driver's license or government-issued identification card that bears a photographic image of the qualifying patient or primary caregiver, under the MMFLA; or bears a photographic image and proof that the individual is 21 years of age or older, under the MRTMA.

(d) The completed transfer or sale will not exceed the purchasing limit prescribed in R 420.506.

(e) The marihuana product has been tested in accordance with R 420.305.

(f) The marihuana product is labeled and packaged for sale or transfer in accordance with R 420.504.

(g) The registered qualifying patient or registered primary caregiver holds a valid, current, unexpired, and unrevoked registry identification card.

(2) A marihuana sales location shall enter all transactions, current inventory, and other information required by these rules in the statewide monitoring system. The marihuana sales location shall maintain appropriate records of all sales or transfers under the acts and these rules and make them available to the agency upon request.

(3) A provisioning center licensed under the MMFLA shall verify all of the following prior to selling or transferring a marihuana product to a visiting qualifying patient:

(a) The visiting qualifying patient has a valid unexpired medical marihuana registry card, or its equivalent issued in another state, district, territory, commonwealth, or insular possession of the United States that allows the medical use of marihuana.

(b) The visiting qualifying patient presented his or her valid driver license or government-issued identification card that bears a photographic image of the visiting qualifying patient.

(c) The transfer or sale, if completed, will not exceed the purchasing limit prescribed in R 420.506.

(d) The marihuana product that is sold or transferred under this rule has been tested in accordance with R 420.305.

(e) The marihuana product is labeled and packaged for sale or transfer in accordance with R 420.50**4**.

(f) As used in this subrule, "visiting qualifying patient" means that term as defined in section 3 of the Michigan Medical Marihuana Act, MCL 333.26423.

(4) A marihuana retailer, marihuana microbusiness, or class A marihuana microbusiness licensed under the MRTMA is not required to retain information from customers other than the following:

(a) Payment method.

(b) Amount of payment.

(c) Time of sale.

(d) Product quantity.

(e) Other product descriptors.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.506 Purchasing limits; transactions; marihuana sales location.

Rule 6. (1) Before the sale or transfer of marihuana product to a registered qualifying patient or registered primary caregiver, under the MMFLA, the licensee shall verify in the statewide monitoring system that the sale or transfer does not exceed either of the daily purchasing limits as follows:

(a) For a registered qualifying patient, an amount of marihuana product that does not, in total, exceed 2.5 ounces of marihuana or marihuana equivalent per day.

(b) For a registered primary caregiver, an amount of marihuana product that does not, in total, exceed 2.5 ounces of marihuana or marihuana equivalent per day for each registered qualifying patient with whom he or she is connected through the agency's registration process.

(2) Before the sale or transfer of marihuana product to a registered qualifying patient or registered primary caregiver, under the MMFLA, the licensee shall verify in the statewide monitoring system that the sale or transfer does not exceed the monthly purchasing limit of 10 ounces of marihuana product per month to a qualifying patient, either directly or through the qualifying patient's registered primary caregiver.

(3) A marihuana retailer, under the MRTMA, is prohibited from making a sale or transferring marihuana to an adult 21 years of age or older in a single transaction that exceeds 2.5 ounces**.** ~~,~~ **N**ot more than 15 grams of marihuana may be in the form of marihuana concentrate.

(4) A marihuana sales location may sell no more than 3 immature plants to a marihuana customer per transaction.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.507 Marketing and advertising restrictions.

Rule 7. (1) A marihuana product may only be advertised or marketed in compliance with all applicable municipal ordinances, state law, and these rules that regulate signs and advertising.

(2) A licensee may not advertise a marihuana product in a way that is deceptive, false, or misleading**,** or make any deceptive, false, or misleading assertions or statements on any marihuana product, sign, or document provided.

(3) Marihuana product marketing, advertising, packaging, and labeling must not contain any claim related to health or health benefits, unless a qualified health claim has received and complies with a Letter of Enforcement Discretion issued by the United States Food and Drug Administration (FDA), or the health claim has been approved under the significant scientific agreement standard by the FDA.

(4) A marihuana product must not be advertised or marketed to members of the public unless the person advertising the product has reliable evidence that no more than 30% of the audience or readership for the television program, radio program, internet website, or print publication, is reasonably expected to be under the age listed in subrules (7) and (8) of this rule. Any marihuana product advertised or marketed must include the warnings listed in R 420.504(1)(j).

(5) A person receiving reasonable payment under a licensing agreement or contract approved by the agency concerning the licensing of intellectual property, including, but not limited to, brands and recipes, is responsible for any marketing or advertising undertaken by either party to the agreement.

(6) A marihuana product marketed or advertised under the MMFLA must be marketed or advertised as "medical marihuana" for use only by registered qualifying patients or registered primary caregivers.

(7) A marihuana product marketed or advertised under the MMFLA must not be marketed or advertised to minors aged 17 years or younger. Sponsorships targeting individuals aged 17 years or younger are prohibited.

(8) A marihuana product marketed or advertised under the MRTMA must be marketed or advertised as "marihuana" for use only by individuals 21 years of age or older.

(9) A marihuana product marketed or advertised under the MRTMA must not be marketed or advertised to individuals under 21 years of age. Sponsorships targeting individuals under 21 years of age are prohibited.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

Editor's Note: An obvious error in R 420.507 was corrected at the request of the promulgating agency, pursuant to Section 56 of 1969 PA 306, as amended by 2000 PA 262, MCL 24.256. The rule containing the error was published in *Michigan Register*, 2022 MR 5. The memorandum requesting the correction was published in *Michigan Register*, 2022 MR 20.

R 420.508 Trade samples.

Rule 8. (1) The following licensees may provide trade samples:

(a) A cultivator may transfer trade samples of marihuana products to a producer or a marihuana sales location.

(b) A producer may transfer trade samples of marihuana products to a producer or marihuana sales location.

(2) The transfer of trade samples does not require the use of a secure transporter under the MMFLA or a marihuana secure transporter under the MRTMA if the amount of trade samples does not exceed either of the following:

(a) 15 ounces of marihuana.

(b) 60 grams of marihuana concentrate.

(3) Trade samples must not be sold or transferred by the receiving producer or marihuana sales location to another producer or marihuana sales location or to a consumer.

(4) Any trade sample transferred to a producer or marihuana sales location or received by a producer or a marihuana sales location must be recorded in the statewide monitoring system.

(5) Any trade samples transferred under this rule must be tested in accordance with these rules prior to being transferred to a producer or marihuana sales location.

(6) A cultivator and producer are limited to transferring the following aggregate amounts of trade samples to a producer or a marihuana sales location in a 30-day period:

(a) 2.5 ounces of marihuana.

(b) 15 grams of marihuana concentrate.

(7) In addition to the information required in R 420.403, a trade sample must have a label containing the statement "TRADE SAMPLE NOT FOR RESALE" in bold, capital letters attached to the trade sample.

(8) A producer or marihuana sales location that receives a trade sample may distribute the trade sample to its employees to determine whether to purchase the marihuana product. A producer or marihuana sales location is limited to transferring a total of 1 ounce of marihuana, a total of 6 grams of marihuana concentrate, and marihuana infused products with a total THC content of 2000 mgs of internal product samples to each of its employees in a 30-day period.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.509 Internal product samples.

Rule 9. (1) A cultivator, producer, marihuana sales location, ~~or~~ marihuana microbusiness, or class A marihuana microbusiness may transfer internal product samples directly to its employees for the purpose of ensuring product quality and making determinations about whether to sell the marihuana product.

(2) Internal product samples may not be transferred or sold to another licensee or consumer.

(3) A licensee shall record the transfer of an internal product sample in the statewide monitoring system.

(4) A cultivator is limited to transferring a total of 1 ounce of internal product samples to each of its employees in a 30-day period.

(5) A producer is limited to transferring a total of 6 grams of marihuana concentrate and marihuana infused products with a total THC content of 2000 mgs of internal product samples to each of its employees in a 30-day period.

(6) A marihuana sales location, marihuana microbusiness, and class A marihuana microbusiness are limited to transferring a total of 1 ounce of marihuana, a total of 6 grams of marihuana concentrate, and marihuana infused products with a total THC content of 2000 mgs of internal product samples to each of its employees in a 30-day period.

(7) A licensee shall have internal product samples tested pursuant to R 420.304 and R 420.305 before transfer to its employees.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.510 Product development.

Rule 10. (1) A cultivator or producer may engage in product development. No other marihuana business may engage in product development.

(2) A cultivator may designate marihuana plants for product development. Any marihuana plants designated for product development count toward the authorized total amount of marihuana plants for a cultivator and must be tracked in the statewide monitoring system.

(3) A producer may designate marihuana concentrate for product development. Any marihuana concentrates designated for product development must be tracked in the statewide monitoring system.

(4) A licensee engaged in product development may submit his or her product development inventory to a laboratory for research and development testing in accordance with these rules.

(5) Disciplinary action may not be taken against a licensee for failed research and development test results on his or her product development inventory.

(6) A cultivator or producer may transfer its product development inventory to its employees for consumption. A licensee shall have product development inventory tested pursuant to R 420.304 and R 420.305 before transferring it to an employee. Any product development inventory that is not properly transferred to an employee must be destroyed pursuant to these rules. All product development inventory transferred to an employee counts toward the limitations in R 420.509(4) and R 420.509(5), as applicable.

(7) A licensee shall record the transfer of product development inventory in the statewide monitoring system.

(8) Product development inventory may not be consumed or used on the premises of the licensee.

(9) A licensee shall not transfer or sell inventory designated for product development to a marihuana sales location, or to a marihuana customer, until after the inventory is tested pursuant to R 420.304 and R 420.305, and the test results in the statewide monitoring system indicate a passed full compliance testing.

(10) Any product development inventory that is transferred to a marihuana sales location must be labeled in accordance with R 420.504.

(11) A cultivator or producer may also engage in a research study with an entity duly authorized by the Drug Enforcement Administration to handle marihuana. A licensee's participation in a research study must be approved by the agency.

(12) A licensee participating in an approved research study shall track all marihuana product involved in the research study in the statewide monitoring system.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420. 511 Severability.

Rule 11. If any rule or subrule of these rules, in whole or in part, is found to be invalid by a court of competent jurisdiction, such decision will not affect the validity of the remaining portion of these rules.

History: 2020 AACS.

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

MARIJUANA REGULATORY AGENCY

MARIHUANA EMPLOYEES

(By authority conferred on the executive director of the marijuana regulatory agency by section 206 of the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27206, sections 7 and 8 of the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27957 and 333.27958, and Executive Reorganization Order No. 2019-2, MCL 333.27001)

R 420.601 Definitions.

Rule 1. (1) As used in these rules:

(a) "Acts" refers to the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801, and the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27951 to 333.27967, when applicable.

(b) "Agency" means the marijuana regulatory agency.

(c) "Cultivator" means both a grower under the medical marihuana facilities licensing act and a marihuana grower under the Michigan Regulation and Taxation of Marihuana Act.

(d) "Designated consumption establishment" means a commercial space that is licensed by the agency and authorized to permit adults 21 years of age and older to consume marihuana products at the location indicated on the state license.

(e) "Employee" means, except as otherwise provided in these rules, a person performing work or service for compensation. "Employee" does not include individuals providing trade or professional services who are not normally engaged in the operation of a marihuana establishment.

(f) "Laboratory" means both a safety compliance facility under the medical marihuana facilities licensing act and a marihuana safety compliance facility under the Michigan Regulation and Taxation of Marihuana Act.

(g) "Limited access area" means a building, room, or other contiguous area of a marihuana business where marihuana is grown, cultivated, stored, weighed, packaged, sold, or processed for sale and that is under the control of the licensee.

(h) "Marihuana business" means a marihuana facility under the medical marihuana facilities licensing act or a marihuana establishment under the Michigan Regulation and Taxation of Marihuana Act, or both.

(i) "Marihuana customer" means a registered qualifying patient under the medical marihuana facilities licensing act, a registered primary caregiver under the medical marihuana facilities licensing act, or an individual 21 years of age or older under the Michigan Regulation and Taxation of Marihuana Act, or all 3.

(j) "Marihuana establishment" means a marihuana grower, marihuana safety compliance facility, marihuana processor, marihuana microbusiness, marihuana retailer, marihuana secure transporter, marihuana designated consumption establishment, or any other type of marihuana related business licensed by the agency under the Michigan Regulation and Taxation of Marihuana Act.

(**k**) “Marihuana event organizer” means a person licensed to apply for a temporary marihuana event license under these rules.

(l) “Marihuana facility” means a location at which a licensee is licensed to operate under the medical marihuana facilities licensing act.

(m) “Marihuana product” means marihuana or a marihuana-infused product, or both, as those terms are defined in the acts unless otherwise provided for in these rules.

(n) “Marihuana sales location” means a provisioning center under the medical marihuana facilities licensing act or a marihuana retailer, marihuana microbusiness¸ or class A marihuana microbusiness under the Michigan Regulation and Taxation of Marihuana Act, or both.

(o) “Marihuana tracking act” means the marihuana tracking act, 2016 PA 282, MCL 333.27901 to 333.27904.

(p) “Marihuana transporter” means a secure transporter under the medical marihuana facilities licensing act or a marihuana secure transporter under the Michigan Regulation and Taxation of Marihuana Act, or both.

(q) “Medical marihuana facilities licensing act” or “MMFLA” means the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801.

(r) “Michigan Regulation and Taxation of Marihuana Act” or “MRTMA” means the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27951 to 333.27967.

(s) “Producer” means both a processor under the medical marihuana facilities licensing act and a marihuana processor under the Michigan Regulation and Taxation of Marihuana Act.

(t) “These rules” means the administrative rules promulgated by the marijuana regulatory agency under the authority of the medical marihuana facilities licensing act, the marihuana tracking act, the Michigan Regulation and Taxation of Marihuana Act, and Executive Reorganization Order No. 2019-2, MCL 333.27001.

(u) “Temporary marihuana event license” means a state license held by a marihuana event organizer under the Michigan Regulation and Taxation of Marihuana Act, for an event where the onsite sale or consumption of marihuana products, or both, are authorized at the location indicated on the state license.

(2) Terms defined in the acts have the same meanings when used in these rules unless otherwise indicated.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.602 Employees; requirements.

Rule 2. (1) A licensee shall conduct a criminal history background check on any prospective employee before hiring that individual. A licensee shall keep records of the results of the criminal history background checks for the duration of the employee’s employment with the licensee. A licensee shall record confirmation of criminal history background checks and make the confirmation available for inspection upon request by the agency.

(2) A licensee shall comply with all of the following:

(a) Have a policy in place that requires employees to report any new or pending criminal charges or convictions. If an employee is charged with or convicted of a controlled substance-related felony or any other felony, the licensee shall immediately report the charge or conviction to the agency. If an employee of a licensee under the MRTMA is convicted of an offense involving distribution of a controlled substance to a minor, the licensee shall immediately report the conviction to the agency.

(b) Enter in the statewide monitoring system an employee's information and level of statewide monitoring system access within 7 business days of hiring for the system to assign an employee identification number. The licensee shall update in the statewide monitoring system employee information and changes in status or access within 7 business days.

(c) Remove an employee's access and permissions to the marihuana business and the statewide monitoring system within 7 business days after the employee's employment with the licensee is terminated.

(d) Train employees in accordance with an employee training manual. Copies of this manual must be maintained and be made available to the agency upon request. The employee training manual must include, but is not limited to, all of the following:

(i) Employee safety procedures.

(ii) Employee guidelines.

(iii) Security protocol.

(iv) Educational training, including, but not limited to, marihuana product information; dosage and purchasing limits, if applicable; and educational materials.

(e) A marihuana business under the MRTMA that sells or transfers marihuana to an individual 21 years of age or older shall include in the employee training manual a responsible operations plan. Copies of this plan must be maintained and be available to the agency upon request. A responsible operations plan must include a detailed explanation of how employees will monitor and prevent all of the following:

(i) Over-intoxication.

(ii) Underage access to the establishment.

(iii) The illegal sale or distribution of marihuana or marihuana products within the establishment.

(iv) Any potential criminal activity on the premises, as applicable.

(f) Establish point of sale or transfer procedures for employees at marihuana sales locations performing any transfers or sales to marihuana customers. Copies of these procedures must be maintained and be made available to the agency upon request. The point of sale or transfer procedures must include, but are not limited to, all of the following:

(i) Training in dosage.

(ii) Marihuana product information.

(iii) Health or educational materials.

(iv) Point of sale training.

(v) Purchasing limits.

(vi) Cannabidiol (CBD) and tetrahydrocannabinol (THC) information.

(vii) Serving size.

(viii) Consumption information, including any warnings.

(g) Screen prospective employees against a list of excluded employees maintained by the agency in accordance with R 420.808a(6).

(h) Ensure that employees handle marihuana product in compliance with Current Good Manufacturing Practice, Hazard Analysis, and Risk Based Preventative Controls for Human Food, 21 CFR part 11~~0~~7, as specified in these rules.

(i) When a registered primary caregiver is hired as an employee of a grower, processor, or secure transporter licensed under the MMFLA, ensure the individual withdraws~~,~~ the individual's registration as a registered primary caregiver in a manner established by the agency.

(j) A licensee under the MRMTA shall not allow a person under 21 years of age to volunteer or work for the marihuana establishment pursuant to section 11 of the MRTMA, MCL 333.27961.

(k) A licensee under the MRTMA shall not employ any individual who has been convicted of an offense involving distribution of a controlled substance to a minor.

(3) If an individual is present at a marihuana business or in a marihuana transporter vehicle who is not identified as a licensee or an employee of the licensee in the statewide monitoring system or is in violation of the acts or these rules, the agency may take any action permitted under the acts and these rules. This subrule does not apply to authorized escorted visitors at a marihuana business.

(4) Employee records are subject to inspection or examination by the agency to determine compliance with the acts and these rules.

(5) Consumption of food and beverages by employees or visitors is prohibited where marihuana product is stored, processed, or packaged or where hazardous materials are used, handled, or stored. The marihuana business may have a designated area for the consumption of food and beverages that includes, but is not limited to, a room with floor to ceiling walls and a door that separates the room from any marihuana product storage, processing, or packaging.

(6) Trade or professional services~~s~~ providers not normally engaged in the operation of a marihuana business, except for those individuals required to have employee credentials under this rule, must be reasonably monitored, logged in as a visitor, and escorted through any limited access areas.

(7) Nothing in this rule prohibits a licensee from allowing visitors into the marihuana business.~~,~~ A licensee shall ensure that visitors are reasonably monitored, logged in as a visitor, and escorted through any limited access areas. Visitors that are not employees or individuals providing trade or professional services are prohibited where hazardous materials are used, handled, or stored in the marihuana business.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.602a Prohibitions.

Rule 2a. (1) An employee of a cultivator may not also be employed by a marihuana transporter or a laboratory.

(2) An employee of a producer may not also be employed by a marihuana transporter or a laboratory.

(3) An employee of a marihuana sales location may not also be employed by a marihuana transporter or a laboratory.

(4) An employee of a marihuana transporter may not also be employed by a cultivator, producer, marihuana sales location, or laboratory.

(5) An employee of a laboratory may not also be employed by a cultivator, producer, marihuana sales location, or marihuana transporter.

(6) An employee of a marihuana microbusiness or a class A marihuana microbusiness may not also be employed by a laboratory or a marihuana transporter.

History: 2022 MR 5, Eff. Mar. 7, 2022.

R 420. 603 Severability.

Rule 3. If any rule or subrule of these rules, in whole or in part, is found to be invalid by a court of competent jurisdiction, such decision will not affect the validity of the remaining portion of these rules.

History: 2020 AACS.

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

MARIJUANA REGULATORY AGENCY

MARIHUANA HEARINGS

(By authority conferred on the executive director of the marijuana regulatory agency by section 206 of the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27206, sections 7 and 8 of the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27957 and 333.27958, and Executive Reorganization Order No. 2019-2, MCL 333.27001)

R 420.701 Definitions.

Rule 1. (1) As used in these rules:

(a) "Acts" refers to the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801, and the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27951 to 333.27967, when applicable.

(b) "Administrative procedures act" means the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(c) "Agency" means the marijuana regulatory agency.

(d) "Contested case hearing" means an administrative hearing conducted by an administrative law judge within the Michigan office of administrative hearings and rules on behalf of the agency in accordance with the acts and these rules.

(e) "MAHS general hearing rules" means the administrative hearing rules set forth in R 792.10101 to R 792.10137 of the Michigan administrative code.

(f) "Marihuana business" means a marihuana facility under the medical marihuana facilities licensing act or a marihuana establishment under the Michigan Regulation and Taxation of Marihuana Act, or both.

(g) "Marihuana establishment" means a marihuana grower, marihuana safety compliance facility, marihuana processor, marihuana microbusiness, marihuana retailer, marihuana secure transporter, marihuana designated consumption establishment, or any other type of marihuana-related business licensed by the agency under the Michigan Regulation and Taxation of Marihuana Act.

(h) "Marihuana facility" means a location at which a licensee is licensed to operate under the medical marihuana facilities licensing act.

(i) "Marihuana license" means a state operating license issued under the medical marihuana facilities licensing act or a state license issued under the Michigan Regulation and Taxation of Marihuana ~~a~~Act, or both.

(j) "Marihuana tracking act" means the marihuana tracking act, 2016 PA 282, MCL 333.27901 to 333.27904.

(k) "Medical marihuana facilities licensing act" or "MMFLA" means the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801.

(l) "Michigan Regulation and Taxation of Marihuana Act" or "MRTMA" means the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27951 to 333.27967.

(m) "MOAHR" means the Michigan office of administrative hearings and rules within the department of licensing and regulatory affairs.

(n) “Public investigative hearing” means a hearing in which an applicant has an opportunity to present testimony and evidence to establish eligibility for a marihuana license.

(o) “These rules” means the administrative rules promulgated by the agency under the authority of the medical marihuana facilities licensing act, the marihuana tracking act, the Michigan Regulation and Taxation of Marihuana Act, and Executive Reorganization Order No. 2019-2, MCL 333.27001.

(2) Terms defined in the acts have the same meanings when used in these rules unless otherwise indicated.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.702 Hearing procedures; scope and construction of rules.

Rule 2. (1) These rules apply to hearings under the jurisdiction of the agency involving 1 or more of the following:

(a) The denial of a marihuana license.

(b) Formal complaints against a license.

(c) A complaint by a licensee.

(d) The denial of the renewal of a marihuana license.

(2) These rules are construed to secure a fair, efficient, and impartial determination of the issues presented in a manner consistent with due process.

(3) If the rules do not address a specific procedure, the MAHS general hearing rules, the Michigan court rules, and the contested case provisions of sections 71 to 87 of the administrative procedures act, MCL 24.271 to 24.287, apply.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.703 Public investigative hearing.

Rule 3. (1) An applicant that is denied a marihuana license by the agency may request a public investigative hearing in writing within 21 days of service of notice of the denial.

(2) After the agency receives notice of an applicant’s request for a public investigative hearing, the agency shall provide an opportunity for this hearing at which the applicant may present testimony and evidence to establish suitability for a marihuana license.

(3) The applicant must be given reasonable notice of the public investigative hearing in writing.

(4) Not less than 2 weeks before the hearing, the agency shall post notice of the public investigative hearing at its business office in a prominent place that is open and visible to the public.

(5) The agency, or 1 or more administrative law judges designated and authorized by the agency, shall conduct and preside over the public investigative hearing and do all of the following:

(a) Administer oaths or affirmations to witnesses called to testify at the hearing.

(b) Receive evidence in the form of testimony and exhibits.

(c) Establish and regulate the order of presentation and course of the public investigative hearing; set the time and place for continued hearings; and fix the time for filing written arguments, legal briefs, and other legal documents.

(d) Accept and consider relevant written and oral stipulations of fact and law that are made part of the hearing record.

(6) Upon timely request of the applicant or the agency in accordance with the Michigan court rules, the agency or the agency's designated administrative law judge may issue subpoenas duces tecum for the production of books, ledgers, records, memoranda, electronically retrievable data, and other pertinent documents and issue subpoenas for witnesses to appear and testify as appropriate to exercise and discharge the powers and duties under the act.

(7) During the public investigative hearing, the applicant and the agency must be given a full opportunity to present witnesses, cross-examine witnesses, and present all relevant evidence regarding the applicant's eligibility and suitability for licensure.

(8) The applicant shall at all times have the burden of establishing, by clear and convincing evidence, its eligibility and suitability for licensure under the acts and these rules.

(9) The agency shall record the public investigative hearing stenographically or by other means, to ensure preservation of an accurate record of the hearing.

(10) Following the public investigative hearing, the executive director of the agency shall affirm, reverse, or modify in whole or in part the denial of a marihuana license.

(11) The agency's decision to affirm, reverse, or modify in whole or in part the denial of a marihuana license must be based on the whole record before the agency and not be limited to testimony and evidence submitted at the public investigative hearing.

(12) The agency's decision to affirm, reverse, or modify in whole or in part the denial of a marihuana license must be reduced to writing and served upon the applicant and agency within a reasonable time.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.704 Hearing on disciplinary actions.

Rule 4. (1) A licensee who has been notified of a marihuana license violation, or of the agency's intent to suspend, revoke, restrict, or refuse to renew a marihuana license or impose a fine, may be given an opportunity to show compliance with the requirements before the agency tak~~ing~~**es** action as prescribed by these rules.

(2) A licensee aggrieved by an action of the agency to suspend, revoke, restrict, or refuse to renew a marihuana license, or to impose a fine, may request a contested case hearing in writing within 21 days after service of notice of the intended action.

(3) Upon receipt of a timely request, the agency shall provide the licensee an opportunity for a contested case hearing in accordance with sections 71 to 87 of the administrative procedures act, MCL 24.271 to 24.287, and the MAHS general hearing rules.

(4) The contested case hearing must be conducted by an administrative law judge within the MOAHR.

(5) Upon timely request of the licensee or the agency in accordance with the Michigan court rules, an assigned administrative law judge may issue subpoenas duces tecum for the production of books, ledgers, records, memoranda, electronically retrievable data, and other pertinent documents, and administer oaths and affirmations to witnesses as appropriate to exercise and discharge the powers and duties under the acts and these rules.

(6) The agency has the burden of proving, by a preponderance of the evidence, that sufficient grounds exist for the intended action to suspend, revoke, restrict, or refuse to renew a marihuana license, or to impose a fine.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.704a Hearing on exclusion of individuals or employees.

Rule 4a. (1) An individual who has been notified of the agency's intent to exclude him or her from being employed by or being a supplemental applicant of a marihuana business may request a hearing in writing within 21 days of service of the notice of intent to exclude.

(2) Upon receipt of a timely request, the agency shall provide the individual an opportunity for a contested case hearing pursuant to sections 71 to 87 of the administrative procedures act, MCL 24.271 to 24.287, and the MAHS general hearing rules.

(3) The contested case hearing must be conducted by an administrative law judge within the MOAHR.

(4) Upon timely request of the licensee or the agency pursuant to the Michigan court rules, an assigned administrative law judge may issue subpoenas duces tecum for the production of books, ledgers, records, memoranda, electronically retrievable data, and other pertinent documents, and issue subpoenas for witnesses to appear and testify as appropriate to exercise and discharge the powers and duties under the acts and these rules.

(5) The agency has the burden of proving, by a preponderance of the evidence, that sufficient grounds exist for the intended action to exclude an individual from being employed by or being a supplemental applicant of a marihuana business.

History: 2022 MR 5, Eff. Mar. 7, 2022.

R 420.705 Summary suspension.

Rule 5. (1) If the agency summarily suspends a marihuana license without notice or hearing upon a determination that the safety or health of patrons or employees is jeopardized by continuing the marihuana business's operation, a post-suspension hearing must be held promptly to determine if the suspension should remain in effect, in accordance with section 92 of the administrative procedures act, MCL 24.292, and the MAHS general hearing rules.

(2) At the post-suspension hearing, the agency has the burden of proving by a preponderance of the evidence that the summary suspension should remain in effect because the safety or health of patrons or employees is jeopardized by continuing the marihuana business's operation.

(3) Immediately after the post-suspension hearing, the administrative law judge shall issue a written order granting or denying dissolution of the summary suspension.

(4) If the licensee fails to appear at the post-suspension hearing, the administrative law judge shall find that the safety or health of patrons or employees is jeopardized by continuing the marihuana business's operation and continue the order of summary suspension.

(5) The record created at the post-suspension hearing becomes a part of the record at any subsequent hearing in the contested case.

History: 2020 AACS.

R 420.706 Complaint by licensee.

Rule 6. (1) Pursuant to the MMFLA and these rules, a licensee may file a written complaint with the agency regarding any investigative procedures of this state that he or she believes to be unnecessarily disruptive of the marihuana facility operations, as provided in section 302 of the act, MCL 333.27302.

(2) The agency may delegate authority to an administrative law judge to hear a licensee's complaint as a contested case in accordance with sections 71 to 79 of the administrative procedures act, MCL 24.271 to 24.279, and the MAHS general hearing rules.

(3) As the complaining party, a licensee has the burden of proving by a preponderance of the evidence that the investigative procedures of the agency unnecessarily disrupted its marihuana facility operations.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.707 Proposal for decision.

Rule 7. Following an opportunity for a public investigative hearing or contested case hearing and closure of the record after submission of briefs, if any, the administrative law judge shall prepare and serve upon the parties a proposal for decision containing proposed findings of fact and conclusions of law, in accordance with section 81 of the APA, MCL 24.281.

History: 2020 AACS.

R 420.708 Final order.

Rule 8. (1) The agency shall consider the entire public investigative or contested case record and may affirm, reverse, or modify all or part of the proposal for decision.

(2) The agency's decision must be reduced to writing and served upon the licensee within a reasonable time.

(3) The review decision or order of the agency following an opportunity for hearing is deemed to be the final agency decision or order for purposes of judicial review under chapter 6 of the APA, MCL 24.301 to 24.306.

History: 2020 AACS.

R 420.709 Severability.

Rule 9. If any rule or subrule of these rules, in whole or in part, is found to be invalid by a court of competent jurisdiction, such decision will not affect the validity of the remaining portion of these rules.

History: 2020 AACS.

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

MARIJUANA REGULATORY AGENCY

MARIHUANA DISCIPLINARY PROCEEDINGS

(By authority conferred on the executive director of the marijuana regulatory agency by section 206 of the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27206, sections 7 and 8 of the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27957 and 333.27958, and Executive Reorganization Order No. 2019-2, MCL 333.27001)

R 420.801 Definitions.

Rule 1. (1) As used in these rules:

(a) "Acts" refers to the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801, and the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27951 to 333.27967, when applicable.

(b) "Administrative hold" means a status given to marihuana product by the agency during an investigation into alleged violations of the acts and these rules. This status includes no sale or transfer of the marihuana product until the hold is lifted.

(c) "Administrative procedures act" means the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(d) "Agency" means the marijuana regulatory agency.

(e) "Another party" or "other party" means an individual or company with which a licensee contracts to use the individual or company's intellectual property or to utilize management or other services provided by the individual or company.

(f) "Bureau of fire services" or "BFS" means the bureau of fire services in the department of licensing and regulatory affairs.

(g) "Contested case hearing" means an administrative hearing conducted by an administrative law judge within the Michigan office of administrative hearings and rules on behalf of the agency pursuant to the acts and these rules.

(h) "Employee" means a person performing work or service for compensation. "Employee" does not include a person providing trade or professional services who is not normally engaged in the operation of a marihuana business.

(i) "Licensing agreement" means any understanding or contract concerning the licensing of intellectual property related to marihuana products between a licensee and another party.

(j) "Management agreement" means any understanding or contract between a licensee and another party for the provision of management or other services that would allow the other party to exercise control over or participate in the management of the licensee or to receive more than 10% of the gross or net profit from the licensee during any full or partial calendar or fiscal year. A management agreement does not include an agreement for the reasonable payment of rent on a fixed basis under a bona fide lease or rental obligation unless the person exercises control over or participates in the management of the marihuana business.

(k) "Marihuana business" means both a marihuana facility under the medical marihuana facilities licensing act, or a marihuana establishment under the Michigan Regulation and Taxation of Marihuana Act, or both.

(l) "Marihuana business location plan" means a marihuana facility plan under the medical marihuana facilities licensing act or a marihuana establishment plan under the Michigan Regulation and Taxation of Marihuana Act, or both.

(m) "Marihuana license" means a state operating license issued under the medical marihuana facilities licensing act or a state license issued under the Michigan Regulation and Taxation of Marihuana Act, or both.

(n) "Marihuana tracking act" means the marihuana tracking act, 2016 PA 282, MCL 333.27901 to 333.27904.

(o) "Medical marihuana facilities licensing act" or "MMFLA" means the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801.

(p) "Michigan Medical Marihuana Act" means the Michigan Medical Marihuana Act, 2008 IL 1, MCL 333.26421 to 333.26430.

(q) "Michigan Regulation and Taxation of Marihuana Act" or "MRTMA" means the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27951 to 333.27967.

(r) "Parties" means a licensee and another party pursuant to a licensing agreement or management agreement.

(**s**) "These rules" means the administrative rules promulgated by the agency under the authority of the medical marihuana facilities licensing act, the marihuana tracking act, the Michigan Regulation and Taxation of Marihuana Act, and Executive Reorganization Order No. 2019-2, MCL 333.27001.

(2) Terms defined in the acts have the same meanings when used in these rules unless otherwise indicated.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.802 Notification and reporting.

Rule 2. (1) Licensees have a continuing duty to provide the agency with up-to-date contact information and shall notify the agency in writing of any changes to the mailing addresses, phone numbers, electronic mail addresses, and other contact information they provide the agency.

(2) Licensees shall report to the agency any changes to the marihuana business operations that are required in the acts and these rules, as applicable.

(3) Licensees shall report to the agency any proposed material changes to the marihuana business before making a material change. A proposed material change is any action that would result in alterations or changes being made to the marihuana business to effectuate the desired outcome of a material change. Material changes, include, but are not limited to, the following:

(a) Change in owners, officers, members, or managers.

(b) Change of processing machinery or equipment.

(c) The addition or removal of a person named in the application or disclosed.

(d) Change in entity name.

(e) Any attempted transfer, sale, or other conveyance of an interest in a marihuana license.

(f) Any change or modification to the marihuana business before or after licensure that was not preinspected, inspected, or part of the marihuana business location plan or final inspection, including, but not limited to, all of the following:

(i) Operational or method changes requiring inspection under these rules.

(ii) Additions or reductions in equipment or processes.

(iii) Increase or decrease in the size or capacity of the marihuana business.

(iv) Alterations of ingress or egress.

(v) Changes that impact security, fire safety, and building safety.

(4) A licensee shall notify the agency within 3 business days of becoming aware or within 3 business day**s** of when the licensee should have been aware of any of the following:

(a) Criminal convictions, charges, or civil judgments against a licensee in this state or any other state, federal, or foreign jurisdiction.

(b) Regulatory disciplinary action taken or determined against a licensee by this state or any other state, federal, or foreign jurisdiction, including any pending action.

(c) Action by another party in violation of the acts or these rules.

(d) Action by an employee in violation of the acts or these rules.

(5) The licensee shall notify the agency within 10 business days of the initiation or conclusion of any new judgments, lawsuits, legal proceedings, charges, or government investigations, whether initiated, pending, or concluded, that involve the licensee.

(6) The licensee shall notify the agency within 10 business days of receiving notification of an alleged violation of an ordinance or a zoning regulation adopted pursuant to section 205 of the MMFLA, MCL 333.27205, or section 6 of the MRTMA, MCL 333.27956, committed by the licensee, but only if the violation relates to activities licensed under the acts, the Michigan Medical Marihuana Act, and these rules.

(7) The licensee shall notify the agency within 10 business days of amending or terminating a licensing or management agreement that constitutes a material change to the marijuana business.

(8) The licensee shall notify the agency within 10 business days of the appointment of a court-appointed personal representative, guardian, conservator, receiver, or trustee of the licensee.

(9) The licensee shall notify the agency when an employee has been disciplined or removed from his or her position for misconduct related to marihuana sales or transfers.

(10) The licensee shall notify the agency and the BFS within 1 business day following the occurrence of an unwanted fire.

(11) Failure to timely provide notifications or reports to the agency pursuant to this rule may result in sanctions or fines, or both.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.803 Changes to licensed marihuana business.

Rule 3. (1) Any change or modification to the marihuana business after licensure is governed by the standards and procedures set forth in these rules and any regulations adopted pursuant to the acts. Any material change or modification to the marihuana business must be approved by the agency before the change or modification is made.

(2) Any change of a location of a marihuana business after licensure requires notification to the agency prior to the change of location, must be approved by the agency, requires a new marihuana license application, and may include, but is not limited to, ~~all of~~ the following:

(a) Additional applications fees.

(b) Additional inspections by the agency or BFS.

(c) Initial licensure fees or regulatory assessment, as applicable, or both.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.804 Notifications of diversion, theft, loss, or criminal activity.

Rule 4. (1) Licensees shall notify the agency and local law enforcement authorities within 24 hours of becoming aware of, or within 24 hours of when the licensee should have been aware of, the theft or loss of any marihuana product or criminal activity at the marihuana business.

(2) Failure to notify as required under subrule (1) of this rule may result in sanctions or fines, or both.

History: 2020 AACS.

R 420.805 Persons subject to penalty; violations.

Rule 5. (1) If the agency during a physical site inspection determines violations of the acts or these rules exist, the agency shall notify the person, applicant, or licensee of the violation during the physical site inspection or thereafter, and the person, applicant, or licensee may be subject to sanctions or fines, or both.

(2) If the agency determines a violation of the acts or these rules exists, these violations must be documented in a format established by the agency. After a notice of violation or fine, or both, is issued to a person, applicant, or licensee, the agency may hold a compliance conference or a hearing if applicable as prescribed in the acts and these rules.

(3) The agency may forward information regarding violations of the acts or these rules or any other state or federal law to the department of state police, department of attorney general, and the prosecutor for the jurisdiction in which the alleged violation occurred.

(4) The agency may take action for failure to pay any fine within the time written on the notice of violation pursuant to the acts or these rules.

(5) The agency may take action against a licensee for selling or transferring marihuana product that has been placed on an administrative hold, recalled, or ordered or otherwise required to be destroyed.

(6) A marihuana licensee may be subject to penalties if any person required to be disclosed as an applicant violates the acts or these rules.

(**7**) The agency may take action against a licensee holding a license under the MRTMA, if notified of a violation of a municipal ordinance pursuant to section 6 of the MRTMA, MCL 333.27956.

(8) The agency may take action against a licensee for knowingly making misrepresentations to the agency or its contractors during an investigation into the licensee.

(9) The attempted transfer, sale, or other conveyance of an interest in a marihuana license without prior approval are grounds for suspension or revocation of the marihuana license or for other sanctions as provided in these rules.

(10) The agency may take action against a licensee for employing an individual who has been excluded from employment at a marihuana business under R 420.808a.

(11) The agency may take action against a licensee for failing to remove from, or attempting to add to, the ownership of a marihuana business an individual who has been excluded from participation in a marihuana business under R 420.808(a).

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.806 Penalties.

Rule 6. (1) A person, applicant, or licensee found in violation of the acts or these rules may be subject to sanctions, including, but not limited to, any of the following:

(a) Marihuana license denial.

(b) Limitations on a marihuana license.

(c) Fines.

(d) Revocation, suspension, nonrenewal of a license, or an administrative hold on a marihuana license.

(e) Orders to cease operations.

(f) Denial of a marihuana license renewal.

(2) A violation of the acts, the marihuana tracking act, or these rules may result in 1 or more of the following:

(a) Denial, revocation, or restriction of a marihuana license.

(b) Removal of a licensee or an employee of the licensee from the marihuana business.

(c) Civil fines up to $10,000.00 or an amount equal to the daily gross receipts, whichever is greater, against a licensee for each violation of the acts, a final order, or these rules.

(d) Civil fines may be assessed for each day the licensee is not in compliance with each violation of the acts or these rules. Assessment of a civil fine is not a bar to the investigation, arrest, charging, or prosecution of an individual for any other violation of the acts or these rules.

(e) Civil fines of up to $5,000.00 may be imposed against an individual licensed under the MMFLA.

(f) A violation of any ordinance adopted under section 205 of the MMFLA, MCL 333.27205, by a licensee holding a license under the MMFLA may result in the possible sanctions listed in subdivisions (a) to (e) of this subrule.

(g) A violation of any ordinance adopted under section 6 of the MRTMA, MCL 333.27956, by a licensee holding a license under the MRTMA may result in the possible sanctions listed in subdivisions (a) to (d) of this subrule.

(3) A marihuana license may be suspended without notice or hearing upon a determination that the safety or health of patrons or employees is jeopardized by continuing a marihuana business' operation.

(4) A person operating without a marihuana license shall cease operation and may be subject to sanctions, including, but not limited to, the sanctions in subrules (1) and (2) of this rule, and may be referred to the department of state police and department of attorney general.

(5) The agency may impose any other remedies, sanctions, or penalties not inconsistent with the acts or these rules.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.807 Warning.

Rule 7. (1) The agency may issue a warning to a licensee if the agency determines through an investigation that the licensee violated the acts, these rules, or an order.

(2) A warning must remain in the licensee's file for 1 year from the date of service.

(3) A warning may be considered in future licensing actions. Continued or repeated non-compliance or repeated warnings for the same violation may result in issuance of a formal complaint.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.808 Formal complaint.

Rule 8. (1) The agency may issue a formal complaint alleging violations of the acts, these rules, or both against a licensee.

(2) The agency shall serve the formal complaint on the licensee by certified mail, return receipt requested, or in person by a representative of the agency.

(3) The licensee may do either of the following:

(a) Meet with the agency to negotiate a settlement of the matter, or demonstrate compliance prior to holding a contested case hearing, as required by section 92 of the administrative procedures act, MCL 24.292.

(b) Proceed to a contested case hearing as set forth in these rules and section 71 of the administrative procedures act, MCL 24.271.

(4) The licensee must request a compliance conference or contested case hearing, or both, within 21 business days of receipt of the formal complaint. If the licensee does not respond, the agency shall request a contested case hearing.

(5) If the licensee agrees and accepts the terms negotiated at the compliance conference, the agency shall submit a proposed consent order and stipulation to the executive director of the agency for review and approval.

(6) If the executive director approves the consent order and stipulation ~~is approved~~, the agency shall issue a consent order. If the stipulation is not approved, a compliance conference or a contested case hearing must be scheduled. The consent order must be published.

(7) If a licensee does not timely comply with the terms of a signed and fully executed consent order, the licensee's license is suspended until full compliance is demonstrated.

(8) If a compliance conference is not held or does not result in a settlement of a compliance action, a contested case hearing must be held, pursuant to these rules and the administrative procedures act.

History: 2020 AACS; 2022 MR 5, Eff. Mar. 7, 2022.

R 420.808a Exclusion.

Rule 8a. (1) A person may be excluded from employment at, or participation in, a marihuana business upon a finding of any of the following:

(a) The person, while employed by a marihuana business, has engaged in conduct that is in violation of the acts or these rules that could negatively impact public health, safety, and welfare.

(b) The person is included on any valid and current exclusion list from another jurisdiction in the United States if the basis for the person's inclusion on the exclusion list would also be grounds for exclusion as set forth in this rule.

(c) The person has been convicted of distribution of a controlled substance to a minor in any jurisdiction.

(2) Upon a determination that a person comes under any of the criteria for exclusion, the person may be deemed a subject for exclusion and the agency shall file a notice of exclusion. The notice must include all of the following information:

(a) The identity of the subject.

(b) A factual statement including the circumstances or reasons that the person should be placed on the exclusion list.

(c) A recommendation as to whether the exclusion or ejection is permanent.

(3) The notice shall also inform the person of the availability of a hearing in compliance with R 420.704a.

(4) The notice shall be served upon the person the agency is seeking to exclude either by personal delivery or by certified mail, postage prepaid.

(5) If a hearing is not requested, then the agency shall place the person on the exclusion list.

(6) If the notice of exclusion provides for a temporary exclusion, then the agency shall set the term of the temporary exclusion.

(a) A temporary exclusion may not be less than 6 months.

(b) A temporary exclusion only applies to a person excluded for criteria related to conduct.

(c) All other exclusions are permanent.

(7) The exclusion list must be a public record made available to licensees by the agency and must include information deemed necessary by the agency to facilitate identification of the person placed on the exclusion list.

(8) A person who is placed on the exclusion list or served with a notice of exclusion is prohibited from being employed by or participating in a marihuana business until a determination by the agency or a court to the contrary.

(9) A marihuana business shall exclude a person from the business that it knows or reasonably should know is on the exclusion list.

(10) Failure by a marihuana business to exclude a person that it knows or reasonably should know is on the exclusion list may subject the marihuana business to disciplinary proceedings.

History: 2022 MR 5, Eff. Mar. 7, 2022.

R 420. 809 Severability.

Rule 9. If any rule or subrule of these rules, in whole or in part, is found to be invalid by a court of competent jurisdiction, such decision will not affect the validity of the remaining portion of these rules.

History: 2020 AACS.

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

MARIJUANA REGULATORY AGENCY

MARIHUANA DECLARATORY RULINGS

(By authority conferred on the executive director of the marijuana regulatory agency by section 5 of the Michigan Medical Marihuana Act, 2008 IL 1, MCL 333.26425, section 206 of the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27206, sections 7 and 8 of the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27957 and 333.27958, and Executive Reorganization Order No. 2019-2, MCL 333.27001)

R 420.821 Definitions.

Rule 21. (1) As used in these rules:

(a) "Acts" refers to the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801, the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27951 to 333.27967, the Michigan Medical Marihuana Act, 2008 IL 1, MCL 333.26421 to 333.26430, and the marihuana tracking act, 2016 PA 282, MCL 333.27901 to 333.27904, when applicable.

(b) "Agency" means the marijuana regulatory agency.

(c) "Contested case hearing" means an administrative hearing conducted by an administrative law judge within the Michigan office of administrative hearings and rules on behalf of the agency in accordance with the acts and these rules.

(d) "Marihuana tracking act" means the marihuana tracking act, 2016 PA 282, MCL 333.27901 to 333.27904.

(e) "Medical marihuana facilities licensing act" or "MMFLA" means the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801.

(f) "Michigan Regulation and Taxation of Marihuana Act" or "MRTMA" means the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27951 to 333.27967.

(g) "These rules" means the administrative rules promulgated by the agency under the authority of the medical marihuana facilities licensing act, the marihuana tracking act, the Michigan Regulation and Taxation of Marihuana Act, and Executive Reorganization Order No. 2019-2, MCL 333.27001.

(2) Terms defined in the acts have the same meanings when used in these rules unless otherwise indicated.

History: 2022 MR 5, Eff. Mar. 7, 2022.

R 420.822 Declaratory rulings.

Rule 22. (1) Any interested person may request a declaratory ruling as to the applicability to an actual state of facts of a statute, rule, final order, or decision administered, promulgated, or issued by the agency. A request may not relate to a hypothetical fact situation.

(2) The request must be on a form provided by the agency and contain all of the following information:

(a) The interested person's name, mailing address, email address, and telephone number.

(b) The interested person's interest in the matter, including assertions regarding the person's legal standing to request a declaratory ruling.

(c) The statute, rule, or order to which the request applies.

(d) A complete, accurate, and concise statement of the facts to which the statute, rule, or order may apply.

(e) An analysis, legal brief, or memorandum of the issues presented, including reference to any legal authority relied upon, and the interested person's conclusions.

(3) Within 60 calendar days of receipt of the request, the agency shall issue a written notification stating whether or not a declaratory ruling will be issued.

(4) If the agency has determined that it will issue a declaratory ruling, then it shall do so within 90 calendar days of the notification date specified in subrule (3) of this rule, unless the agency notifies the interested person in writing of the need for additional time, and the reasons for the additional time.

(5) Before the issuance of the declaratory ruling, the agency, in its discretion, may choose to do 1 or more of the following:

(a) Seek consultation, comments, or advice from legal counsel, experts within or outside the agency, local, state, or federal governmental agencies, or any other source.

(b) Request information or clarification from other interested parties.

(c) Advise the person requesting the ruling that further clarification of the facts must be provided, or that the agency requires additional time to conduct a review.

(6) If subrule (5)(c) of this rule is invoked, the agency shall either deny or grant the request within 60 calendar days after receiving satisfactory clarification of facts from the requesting person or from the date the agency notifies the requesting person of the need for additional time.

(7) The agency shall issue a declaratory ruling only in matters where all the relevant facts are stipulated to by the requesting party and the agency. If relevant facts necessary to issue a declaratory ruling are contested, then a declaratory ruling shall not be issued.

(8) A denial or adverse decision of a declaratory ruling does not entitle a person to a contested case hearing.

(9) Requests regarding enforcement issues are not a proper subject for a declaratory ruling.

(10) The agency may require that a contested case hearing take place instead of issuing a declaratory ruling.

(11) In the discretion of the agency, a request for declaratory ruling may be denied if the interested person fails to follow the procedure for submission set forth in this rule, if the state of facts is incomplete or inaccurate, if the facts or circumstances relate to a changing situation, if the ruling would not be in the public interest or in furtherance of statutory objectives, or for any other stated reason. The agency shall set forth the reasons for denial of the request in its written notification to the interested person.

(12) If a declaratory ruling is issued by the agency, it must be in writing, and contain all of the following:

(a) The specific facts upon which it is based.

(b) The legal authority upon which it is based.

(c) The ruling itself.

(d) A statement that the ruling is limited to the specific facts presented and to the statute, rule, final decision, or order identified by the interested person or other statute, rule, final decision, or order identified by the agency.

(e) A statement that the ruling is binding on the agency and the interested person unless it is altered or set aside by any court.

(f) A statement that the agency may not retroactively change the ruling but may prospectively do so in its discretion.

(13) Nothing in this rule is intended to limit or restrict the agency's ability to respond to questions or inquiries from licensees or the general public, but any agency response to such questions or inquiries shall not be binding on the agency.

History: 2022 MR 5, Eff. Mar. 7, 2022.

R 420.823 Severability.

Rule 23. If any rule or subrule of these rules, in whole or in part, is found to be invalid by a court of competent jurisdiction, such decision will not affect the validity of the remaining portion of these rules.

History: 2022 MR 5, Eff. Mar. 7, 2022.

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

MARIJUANA REGULATORY AGENCY

INDUSTRIAL HEMP RULES FOR MARIHUANA BUSINESSES

(By authority conferred on the executive director of the marijuana regulatory agency by section 206 of the medical marihuana facilities licensing Act, 2016 PA 281, MCL 333.27206, sections 7 and 8 of the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27957 and 333.27958, and Executive Reorganization Order No. 2019-2, MCL 333.27001)

R 420.1001 Definitions.

Rule 1. (1) As used in these rules:

(a) "Agency" means the marijuana regulatory agency.

(b) "Broker" means that term as defined in section 2 of the industrial hemp research and development act, MCL 286.842.

(c) "Department" means the department of licensing and regulatory affairs.

(d) "Grower" means that term as defined in section 2 of the industrial hemp research and development act, MCL 286.842.

(e) "Handle" means that term as defined in section 2 of the industrial hemp research and development act, MCL 286.842.

(f) "Industrial hemp" means that term as defined in section 2 of the industrial hemp research and development act, MCL 286.842.

(g) "Industrial hemp research and development act" means the industrial hemp research and development act, 2014 PA 547, MCL 286.841 to 286.859.

(h) "Laboratory" means a safety compliance facility licensed under the medical marihuana facilities licensing act or a marihuana safety compliance facility licensed under the Michigan regulation and taxation of marihuana act, or both.

(i) "Marihuana processor" means that term as defined in section 3 of the Michigan regulation and taxation of marihuana act, MCL 333.27953.

(j) "Marihuana safety compliance facility" means that term as defined in section 3 of the Michigan regulation and taxation of marihuana act, MCL 333.27953.

(k) "Marihuana tracking act" means the marihuana tracking act, 2016 PA 282, MCL 333.27901 to 333.27904.

(l) "Market" means that term as defined in section 2 of the industrial hemp research and development act, MCL 286.842.

(m) "Medical marihuana facilities licensing act" or "MMFLA" means the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801.

(n) "Michigan medical marihuana act" means the Michigan Medical Marihuana Act, 2008 IL 1, MCL 333.26421 to 333.26430.

(o) "Michigan regulation and taxation of marihuana act" or "MRTMA" means the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27951 to 333.27967.

(p) "Process" means that term as defined in section 2 of the industrial hemp research and development act, MCL 286.842.

(q) “Processor” means a facility licensed to operate under section 502 of the medical marihuana facilities licensing act, MCL 333.27502, and these rules.

(r) “Producer” means a processor licensed under the medical marihuana facilities licensing act or a marihuana processor licensed under the Michigan regulation and taxation of marihuana act, or both.

(s) “Rules” means the administrative rules promulgated by the agency under the authority of the medical marihuana facilities licensing act, the marihuana tracking act, the Michigan regulation and taxation of marihuana act, and Executive Reorganization Order No. 2019-2, MCL 333.27001.

(t) “Safety compliance facility” means a facility licensed to operate under section 505 of the medical marihuana facilities licensing act, MCL 333.27505, and these rules.

(2) Terms defined in the acts have the same meanings when used in these rules unless otherwise indicated.

History: 2020 MR 12, Eff. June 22, 2020.

R 420.1002 Testing industrial hemp.

Rule 2. (1) A laboratory may perform tests on industrial hemp product as required under the industrial hemp research and development act and any associated rules promulgated by the Michigan department of agriculture and rural development.

(2) A laboratory may perform all tests required or requested in the industrial hemp research and development act and any associated rules promulgated by the Michigan department of agriculture and rural development.

(3) A laboratory shall document all testing performed on industrial hemp products and shall make those records available to the agency upon request.

(4) A laboratory shall maintain industrial hemp product samples separate from any marihuana product samples at all times.

(5) A laboratory may obtain samples of industrial hemp for testing pursuant to the industrial hemp research and development act and any associated rules promulgated by the Michigan department of agriculture and rural development.

(6) A laboratory must report test results as required under the industrial hemp research and development act and any associated rules promulgated by the Michigan department of agriculture and rural development.

(7) A laboratory must not transfer or sell any industrial hemp product obtained for testing to any other facility other than the licensee from whom the sample was obtained.

(8) A laboratory shall enter all transactions, current inventory, and other information into the statewide monitoring system as required by the industrial hemp research and development act and any associated rules promulgated by the Michigan department of agriculture and rural development.

History: 2020 MR 12, Eff. June 22, 2020.

R 420.1003 Processing industrial hemp.

Rule 3. (1) A producer may handle, process, market, or broker industrial hemp in compliance with the industrial hemp research and development act and any associated rules promulgated by the Michigan department of agriculture and rural development.

(2) A producer may obtain industrial hemp to process as allowed under the industrial hemp research and development act and any associated rules promulgated by the Michigan department of agriculture and rural development.

(3) A producer shall always store industrial hemp separately from marihuana products and in compliance with these rules relating to storage of marihuana products promulgated by the agency.

(4) A producer shall document all industrial hemp obtained by the facility and shall make those records available to the agency upon request.

(5) A producer shall enter all transactions, current inventory, and other information into the statewide monitoring system as required by the industrial hemp research and development act and any associated rules promulgated by the Michigan department of agriculture and rural development.

History: 2020 MR 12, Eff. June 22, 2020.

R 420.1004 Severability.

Rule 4. If any rule or subrule of these rules, in whole or in part, is found to be invalid by a court of competent jurisdiction, such decision will not affect the validity of the remaining portion of these rules.

History: 2020 MR 12, Eff. June 22, 2020.