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John R. Ashcroft Secretary of State

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HOW TO CITE RULES AND RSMO

RULES

The rules are codified in the *Code of State Regulations* in this system–

Title	CSR	Division	Chapter	Rule
3	*Code of*	10-	4	115
Department	*State*	Agency	General area	Specific area
	Regulations	division	regulated	regulated

and should be cited in this manner: 3 CSR 10-4.115.

Each department of state government is assigned a title. Each agency or division in the department is assigned a division number. The agency then groups its rules into general subject matter areas called chapters and specific areas called rules. Within a rule, the first breakdown is called a section and is designated as (1). Subsection is (A) with further breakdown into paragraphs 1., subparagraphs A., parts (I), subparts (a), items I. and subitems a.

The rule is properly cited by using the full citation; for example, 3 CSR 10-4.115, NOT Rule 10-4.115.

Citations of RSMo are to the *Missouri Revised Statutes* as of the date indicated.

Code and *Register* on the Internet

The *Code of State Regulations* and *Missouri Register* are available on the Internet.

The *Code* address is sos.mo.gov/adrules/csr/csr

The *Register* address is sos.mo.gov/adrules/moreg/moreg

These websites contain rulemakings and regulations as they appear in the *Code* and *Registers*.

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Documents will be accepted for filing on all regular workdays from 8:00 a.m. until 5:00 p.m. We encourage early filings to facilitate the timely publication of the *Missouri Register*. Orders of Rulemaking appearing in the *Missouri Register* will be published in the *Code of State Regulations* and become effective as listed in the chart above. Advance notice of large volume filings will facilitate their timely publication. We reserve the right to change the schedule due to special circumstances. Please check the latest publication to verify that no changes have been made in this schedule. To review the entire year's schedule, please see the website at sos.mo.gov/adrules/pubsched.

The text of proposed rules and changes will appear under this heading. A notice of proposed rulemaking is required to contain an explanation of any new rule or any change in an existing rule and the reasons therefor. This explanation is set out in the PURPOSE section of each rule. A citation of the legal authority to make rules is also required, and appears following the text of the rule, after the word "Authority."

Entirely new rules are printed without any special symbology under the heading of proposed rule. If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission. Rules that are proposed to be amended will have new matter printed in boldface type and matter to be deleted placed in brackets.

An important function of the *Missouri Register* is to solicit and encourage public participation in the rulemaking process. The law provides that for every proposed rule, amendment, or rescission there must be a notice that anyone may comment on the proposed action. This comment may take different forms.

If an agency is required by statute to hold a public hearing before making any new rules, then a Notice of Public Hearing will appear following the text of the rule. Hearing dates must be at least thirty (30) days after publication of the notice in the *Missouri Register*. If no hearing is planned or required, the agency must give a Notice to Submit Comments. This allows anyone to file statements in support of or in opposition to the proposed action with the agency within a specified time, no less than thirty (30) days after publication of the notice in the *Missouri Register*.

An agency may hold a public hearing on a rule even though not required by law to hold one. If an agency allows comments to be received following the hearing date, the close-of-comments date will be used as the beginning day in the ninety- (90-) day count necessary for the filing of the order of rulemaking.

If an agency decides to hold a public hearing after planning not to, it must withdraw the earlier notice, file a new notice of proposed rulemaking, and schedule a hearing for a date not less than thirty (30) days from the date of publication of the new notice.

Proposed Amendment Text Reminder:
Boldface text indicates new matter.
[Bracketed text indicates matter being deleted.]

TITLE 2 – DEPARTMENT OF AGRICULTURE
Division 30 – Animal Health
Chapter 2 – Health Requirements for Movement of Livestock, Poultry, *Miscellaneous,* and Exotic Animals

PROPOSED RULE

2 CSR 30-2.004 Definitions

PURPOSE: This rule defines terms used in interstate, intrastate, and exhibition requirements for the movement of livestock, poultry, miscellaneous, and exotic animals in Missouri.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here

(1) As used in this chapter, the following terms mean –

(A) Accredited Laboratory – A diagnostic laboratory which meets the standards of an approved accreditation body such as American Association of Veterinary Laboratory Diagnosticians (AAVLD) or an International Organization for Standardization (ISO) 17025 accrediting audit group;

(B) Accredited Veterinarian – A veterinarian approved by the administrator of the Animal and Plant Health Inspection Service (APHIS), United States Department of Agriculture (USDA), and the state veterinarian in accordance with Part 161 of Title 9, Chapter 1, of the *Code of Federal Regulations* (CFR), to perform functions required by cooperative state-federal animal disease control and eradication programs;

(C) Approved Livestock Market – A place of business or place where livestock is concentrated for the purpose of sale, exchange, or trade made at regular or irregular intervals, whether at auction or not, except this definition shall not apply to any public farm sale or purebred livestock sale, or to any sale, transfer, or exchange of livestock from one person to another person for movement or transfer to other farm premises or directly to a licensed market and licensed by the Missouri Department of Agriculture;

(D) Aquaculture Health Plan – A written agreement developed for an aquaculture production system designed to maintain the health of the aquaculture and detect disease;

(E) Certificate of Veterinary Inspection (CVI) – The term Certificate of Veterinary Inspection means a legible record made on an official form of the state of origin, issued by an accredited licensed veterinarian. The official Certificate of Veterinary Inspection shall state that the animal(s) are free of visible signs of contagious, infectious, or communicable disease and describe the animal(s) by species, breed, sex, and age. All animals will be individually identified and listed on the CVI along with all data for required tests and vaccinations, including date, results, and the name of the laboratory performing the test;

(F) Certified Free Herd – A herd of cattle, swine, goats or a flock of sheep or birds which has met the requirements and the conditions set forth in sections 267.560 to 267.660, RSMo, and as required by the department and as recommended by the USDA, and for such status for a specific disease and for a herd of cattle, swine, goats or flock of sheep, or birds in another state which has met those minimum requirements and conditions under the supervision of the livestock sanitary authority of the state in which said animals or birds are domiciled, and as recommended by the USDA for such status for a specific disease;

(G) Commercial Swine – Swine that are continuously managed and have adequate facilities and practices to prevent exposures to feral swine;

(H) Chronic Wasting Disease (CWD) Non-Susceptible Cervids – All cervid species that have not been proven to be susceptible to CWD;

(I) CWD Susceptible Cervids – Cervidae species that have proven to be susceptible to CWD, which includes whitetail deer, blacktail deer, mule deer, red deer, elk, moose, sika deer, reindeer, and hybrids of these species;

(J) Dairy Cattle – All cattle, regardless of age or sex or current use, that are of a breed(s) used to produce milk or other dairy products for human consumption, including but not limited to Ayrshire, Brown Swiss, Holstein, Jersey, Guernsey, Milking Short-

horn, and Red and Whites;

(K) Department or Department of Agriculture – The Department of Agriculture of the state of Missouri, and when by this law the said Department of Agriculture is charged to perform a duty, it shall be understood to authorize the performance of such duty by the Director of Agriculture of the state of Missouri, or by the state veterinarian of the state of Missouri or his/hers duly authorized deputies acting under the supervision of the Director of Agriculture;

(L) Director – The director of the Department of Agriculture of Missouri;

(M) Entry Permits – It is specifically noted within these rules when an entry permit is required. Entry permit numbers may be obtained by using the 24/7 online pemitting system at https://mo.tnatc.org/usaherds/ops/Login.aspx or by contacting the Missouri Department of Agriculture, Division of Animal Health, at (573) 751-3377 during normal business hours, Monday through Friday. If using an approved electronic health certificate application that submits the health certificate instantaneously, the permit requirement is waived, except for any cervidae. Please contact the Division of Animal Health to see if your electronic health certificate application is approved;

(N) Exotic Animals – Any animal that is native to a foreign country or of foreign origin or character, is not native to the United States, or was introduced from abroad. This term specifically includes animals such as, but not limited to, lions, tigers, leopards, elephants, antelope, anteaters, kangaroos, and water buffalo, and species of foreign domestic cattle, such as Ankole, Gayal, and Yak;

(O) Feral Swine – Swine that is born, living, or has lived in the wild, and the offspring of such swine. For the purposes of this subdivision, "in the wild" means not confined by humans to pens, houses, or other facilities designed to hold swine and prevent their escape;

(P) Licensed Dealer – Any person engaged in the business of buying, selling, or exchanging in commerce of livestock;

(Q) Licensed Market – A place of business or place where livestock is concentrated for the purpose of sale, exchange, or trade made at regular or irregular intervals, whether at auction or not, except this definition shall not apply to any public farm sale or purebred livestock sale, or to any sale, transfer, or exchange of livestock from one person to another person for movement or transfer to other farm premises or directly to a licensed market;

(R) Licensed Veterinarian – A person who has graduated from an accredited school of veterinary medicine or has received equivalent formal education as determined by the Administrator, and who has a valid license to practice veterinary medicine in some state;

(S) Livestock – Cattle, swine, sheep, ratite birds including but not limited to ostrich and emu, aquatic products as defined in section 277.024, RSMo, llamas, alpaca, buffalo, bison, elk documented as obtained from a legal source and not from the wild and raised in confinement for human consumption or animal husbandry, goats and poultry, equine and exotic animals;

(T) Miscellaneous Animals – All other species not specifically listed, to include but not limited to rabbits, rodents, reptiles, pet birds, etc;

(U) Negative Trichomoniasis Bull – A bull with a series of three (3) negative cultures at least one (1) week apart or one (1) negative polymerase chain reaction (PCR) test for Tritrichomonas foetus or two (2) negative PCR tests if commingled with a positive Trichomoniasis herd;

(V) Negative Trichomoniasis Herd – A group of bovines that have been commingled in the previous breeding season and all test-eligible bulls have tested negative for Tritrichomonas foetus within the previous twelve (12) months;

(W) Official Identification – An official form of identification such as an official ear tag or group/lot identification number (GIN), as defined by Title 9, *Code of Federal Regulations*, Part 71, published June 13, 1963, herein incorporated by reference and made a part of this rule, as published by the United States Government Publishing Office, 732 N. Capital Street NW, Washington, DC 20402-0001, phone: toll free (866) 512-1800, DC area (202) 512- 1800, website: http://bookstore.gpo.gov. This rule does not incorporate any subsequent amendments or additions;

(X) Official Laboratory – A Veterinary Diagnostic Laboratory operated by and under the direction of the state veterinarian or other diagnostic laboratories accredited by the American Association of Veterinary Laboratory Diagnosticians or member of the National Animal Health Laboratory Network;

(Y) Official Scrapie Identification – As defined in Title 9, *Code of Federal Regulations*, Part 79, published March 25, 2019, herein incorporated by reference and made a part of this rule, as published by the United States Government Publishing Office, 732 N. Capital Street NW, Washington, DC 20402-0001, phone: toll free (866) 512-1800, DC area (202) 512-1800, website: http://bookstore.gpo.gov or any other means of identification approved by the state veterinarian identifying them to the flock of origin and listed on a CVI. This rule does not incorporate any subsequent amendments or additions;

(Z) Positive Trichomoniasis Bull – Male bovine which has ever tested positive for Trichomoniasis (Tritrichomonas foetus);

(AA) Positive Trichomoniasis Herd – A group of bovines that have commingled in the previous breeding season and in which an animal (male or female) has had a positive diagnosis for Tritrichomonas foetus;

(BB) Quarantine – A condition in which an animal or bird of any species is restricted in movement to a particular premises under such terms and conditions as may be designated by order of the state veterinarian or his/hers duly authorized deputies;

(CC) Swine Production Health Plan – A written agreement developed for a swine production system designed to maintain the health of the swine and detect signs of communicable disease as defined in 9 CFR Part 71.1 Definitions;

(DD) Transitional Swine – Swine raised on dirt or that have reasonable opportunities to be exposed to feral swine; and

(EE) Trichomoniasis – A venereal disease of cattle caused by the protozoan parasite species of Tritrichomonas foetus.

AUTHORITY: section 267.645, RSMo 2016. Original rule filed May 5, 2023.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule by website at https://agriculture.mo.gov/proposed-rules/ or by mail at Missouri Department of Agriculture, ATTN: Dr. Steve Strubberg, PO Box 630, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

TITLE 2 – DEPARTMENT OF AGRICULTURE
Division 30 – Animal Health
Chapter 2 – Health Requirements for Movement of Livestock, Poultry, *Miscellaneous,* and Exotic Animals

PROPOSED AMENDMENT

2 CSR 30-2.010 Health Requirements Governing the Admission of Livestock, Poultry, *Miscellaneous,* and Exotic Animals Entering Missouri. The department is amending the chapter title and the rule title, sections (1), (2), and (16), removing sections (1), (2), and (16), renumbering as necessary, amending sections (1)–(13), and adding sections (14) and (15).

PURPOSE: This amendment removes material incorporated by reference, removes the limit of dairy cattle being over two (2) months before being individually identified and tested, changes a certain breed of dairy cattle bing imported from Mexico to include all dairy and dairy-cross cattle, adds a requirement that rodeo stock from Mexico have a negative tuberculosis test within sixty (60) days of shipment, prohibits all feral swine from entering Missouri, updates how the VS Form 10-11 is accepted, adds the option of moving swine on a swine health plan, separates requirements for exotic and miscellaneous animals, adds a requirement for B. ovis testing in sheep, removes brucellosis testing requirement for cervids unless from any brucellosis surveillance area, allows elk to move directly to slaughter without being in CWD program, allows CWD non-susceptible cervids to move into the state without having to be in a CWD program, allows aquatic animals to move on an Aquatic Health Plan.

*PURPOSE: This rule sets forth the requirements governing the admission of livestock, poultry, **miscellaneous,** and exotic animals into Missouri.*

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

[(1) Certificate of Veterinary Inspection. The term Certificate of Veterinary Inspection means a legible record made on an official form of the state of origin, issued by an accredited licensed veterinarian. The official Certificate of Veterinary Inspection shall state that the animal(s) are free of visible signs of contagious, infectious, or communicable disease and describe the animal(s) by species, breed, sex, and age. All animals will be individually identified as defined by Title 9, Code of Federal Regulations, Part 71, published annually in January, herein incorporated by reference and made a part of this rule, as published by the United States Superintendent of Documents, 732 N Capital Street NW, Washington, DC 20402-0001, phone: toll free (866) 512-1800, DC area (202) 512-1800, website: http://bookstore.gpo.gov, or any other means of permanent identification approved by the state veterinarian and listed as well as all data for required tests and vaccinations, including date, results, and the name of the laboratory on the Certificate of Veterinary Inspection. This rule does not incorporate any subsequent amendments or additions.

(2) Entry Permits. Entry permit numbers may be obtained by contacting the Missouri Department of Agriculture, Division of Animal Health, (573) 751-4359. It is specifically noted within these rules when an entry permit is required. Permits and information regarding Missouri's import requirements may be obtained at this telephone number from 7:30 a.m. to 5:00 p.m. (Central Time (CT)), Monday through Friday.]

*[(3)]***(1)** Relation to Federal Requirements. All animals entering Missouri must be in compliance with the Missouri requirements contained in this rule, in addition to federal regulations.

*[(4)]***(2)** Cattle (beef and dairy), Bison, and Exotic Bovids. All cattle, bison, or exotic bovids exchanged, bartered, gifted, leased, or sold entering Missouri must meet the following requirements:

(A) Baby *[C]***c**alves – calves under two (2) months of age not accompanied by their dam may be imported by resident buyers, directly to a Missouri farm, or move directly from farm of origin to a market and must meet the following requirements:

1. **A Certificate of Veterinary Inspection (CVI) and an** *[E]***e**ntry permit must be obtained on all shipments of calves under two (2) months of age. All calves under two (2) months of age will be quarantined to the receiving farm for sixty (60) days; and

2. All calves under two (2) months of age must be individually identified by an official ear tag as defined by *[Title 9, Code of Federal Regulations, Part 71, published annually in January, herein incorporated by reference and made a part of this rule, as published by the United States Superintendent of Documents, 732 N Capital Street NW, Washington, DC 20402-0001, phone: toll free (866) 512-1800, DC area (202) 512-1800, website: http://bookstore.gpo.gov,]* **official identification,** or registration tattoo**,** or any other means of permanent identification approved by the state veterinarian and listed on the *[Certificate of Veterinary Inspection. This rule does not incorporate any subsequent amendments or additions]***CVI**;

(B) Brucellosis *[R]***r**equirements – *[A]***a**ll *[S]***s**tates –

1. A negative brucellosis test shall consist of one (1) of the following tests: Brucella Buffered Antigen (BBA) Card Test, Buffered Acidified Plate Antigen Presumptive Test, or other official tests approved by the state veterinarian. All tests, regardless of method, must be confirmed at a state- or federally-approved laboratory. Any discrepancies in test results must be reported to the state veterinarian's office;

2. Test-eligible animals include all sexually intact animals eighteen (18) months of age and over;

3. All test-eligible animals must be individually identified by an official ear tag as defined by *[Title 9, Code of Federal Regulations, Part 71, published annually in January, herein incorporated by reference and made a part of this rule, as published by the United States Superintendent of Documents, 732 N Capital Street NW, Washington, DC 20402-0001, phone: toll free (866) 512-1800, DC area (202) 512-1800, website: http://bookstore.gpo.gov,]* **official identification, or** registration tattoo, or any other means of permanent identification approved by the state veterinarian and listed on the *[Certificate of Veterinary Inspection. This rule does not incorporate any subsequent amendments or additions]* **CVI**;

4. The state veterinarian may designate high incidence areas within certain states that must meet additional import restrictions and retest requirements; and

5. Classification of states. Animals that originate directly from officially classified states must meet the requirements that follow:

A. Class free states –

(I) Farm*[-]* of*[-]* origin animals may move to approved livestock markets and slaughter establishments accompanied by a waybill, bill of lading, or owner/shipper statement showing origin and destination;

(II) Other animal movements must be accompanied by a *[Certificate of Veterinary Inspection]* **CVI**, showing individual identification on all animals that are test-eligible; and

(III) No brucellosis test or entry permit is required;

B. Class A states –

(I) All animals must be accompanied by a *[Certificate of Veterinary Inspection]* **CVI** showing individual identification on all animals that are test-eligible. A negative brucellosis test within thirty (30) days prior to shipment is required on all test-eligible animals. Farm*[-]*of*[-]* origin animals may move to an approved market or slaughter establishment accompanied by a waybill, bill of lading, or owner/shipper statement showing origin and destination;

(II) Animals from certified brucellosis-free herds may enter on herd status without additional testing, provided the certified herd number and current test date is shown on the *[Certificate of Veterinary Inspection]* **CVI**;

(III) Rodeo bulls must have a negative brucellosis test within twelve (12) months prior to entering the state; and

(IV) No entry permit is required;

(C) Tuberculosis.

[1. All test-eligible animals (those animals over two (2) months of age) must be officially individually identified and listed on a Certificate of Veterinary Inspection.]

*[2.]***1**. Beef cattle.

A. All classes of beef cattle (including exotic bovids and bison) two (2) months of age and older, both breeding and feeding, entering Missouri from a state having a tuberculosis-free status may enter without additional testing requirements or entry permit.

B. All classes of beef cattle (including exotic bovids and bison) *[two (2)]* **six (6)** months of age and older, both breeding and feeding, entering Missouri from a state having a tuberculosis status less than free must meet the following requirements:

(I) Must be officially identified and listed on a CVI;

*[(I)]***(II)** Must obtain an entry permit;

*[(II)]***(III)** Must have a negative tuberculosis test within sixty (60) days of shipment (test date must be listed on the *[Certificate of Veterinary Inspection]* **CVI**); or

*[(III)]***(IV)** Move from an accredited tuberculosis-free herd (herd number and current herd test date must be listed on the *[Certificate of Veterinary Inspection]* **CVI**); or

*[(IV)]***(V)** Move directly from a herd of origin that has had one (1) complete negative herd test within one (1) year (date of test must be listed on the *[Certificate of Veterinary Inspection]* **CVI**).

*[3.]***2**. Dairy cattle.

A. *[All classes of dairy cattle two (2) months of age and older, both breeding and feeding, entering Missouri must meet the following requirements]* **A. All dairy cattle, both breeding and feeding, entering Missouri must meet the following requirements:**

(I) Must *[obtain an entry permit]* **be officially identified and listed on the CVI**;

(II) *[Must]* **All sexually intact dairy cattle six (6) months and older must** have a negative tuberculosis test within sixty (60) days of shipment (test date must be listed on the *[Certificate of Veterinary Inspection]* **CVI**); or

(III) Move from an accredited tuberculosis-free herd (herd number and current herd test date must be listed on the *[Certificate of Veterinary Inspection]* **CVI**); or

(IV) Move directly from a herd of origin that has had one (1) complete negative herd test within one (1) year (date of test must be listed on the *[Certificate of Veterinary Inspection]* **CVI**).

*[4.]***3.** Importation of steers and spayed heifers from Mexico.

A. Steers and spayed heifers from Mexican states that have been determined by the state veterinarian of Missouri, based on the recommendation of the Bi-National Committee, to have fully implemented the Control/Preparatory Phase of the Mexican Tuberculosis Eradication Program may enter Missouri, provided they have been tested negative for tuberculosis in accordance with the Norma Official Mexicana (NOM) within sixty (60) days prior to entry into the United States, and obtain an entry permit prior to entering Missouri.

B. Steers and spayed heifers from Mexican states that have been determined by the state veterinarian of Missouri, based on the recommendation of the Bi-National Committee to have fully implemented the Eradication Phase of the Mexican Tuberculosis Eradication Program, may enter Missouri, provided they have been tested negative for tuberculosis in accordance with the Norma Official Mexicana (NOM) within sixty (60) days prior to entry into the United States. Steers and spayed heifers from these same Mexican states that originate from herds equal to U.S. Accredited TB-Free herds may enter Missouri without testing, provided they are moved directly from the herd of origin across the border as a single group and not commingled with other cattle prior to arriving at the border, and obtain an entry permit prior to entering Missouri.

C. Steers and spayed heifers from Mexican states that have been determined by the state veterinarian of Missouri, based on the recommendation of the Bi-National Committee, to have achieved accredited-free status may enter Missouri without testing, provided they are moved as a single group and not commingled with cattle of a different status prior to arriving to the border, and obtain an entry permit prior to entering Missouri.

D. *[Holstein and Holstein-cross]* **Dairy and dairy-cross** steers and spayed heifers from Mexico are prohibited from entering Missouri, regardless of test history.

*[5.]***4.** All rodeo stock, over eighteen (18) months of age, must be tested negative for tuberculosis within sixty (60) days and obtain an entry permit prior to entering Missouri. No sexually intact rodeo stock from Mexico will be permitted into Missouri without a *[current]* **negative** tuberculosis test **within sixty (60) days of shipment (test date must be listed on the CVI)**.

*[6.]***5.** The state veterinarian may designate high incidence areas within certain states that must meet additional import restrictions and retest requirements; and

(D) Trichomoniasis *[R]***r**equirements.

1. All breeding bulls (excluding bison and exotic bovids) entering the state shall be –

A. Virgin bulls not more than twenty-four (24) months of age as determined by the presence of both permanent central incisor teeth in wear or by breed registry papers; or

B. Be tested negative for Trichomoniasis with an *[official culture test or]* official *[P]***p**olymerase *[C]***c**hain *[R]***r**eaction (PCR) test by an official laboratory**, or any official test approved by the state veterinarian,** within thirty (30) days prior to entry into the state.

(I) Bulls shall be tested *[three (3) times, not less than one (1) week apart, by an official culture test or]* one (1) time by **an** official PCR test **or any official test approved by the state veterinarian** prior to entering Missouri.

(II) Bulls shall be identified by official identification at

the time the initial test sample is collected.

(III) Bulls that have had contact with female cattle subsequent to testing must be retested prior to entry.

2. If the breeding bulls are virgin bulls, less than twenty-four (24) months of age, they shall be –

A. Individually identified by official identification;

B. Be accompanied with a breeder's certification of virgin status signed by the breeder or his representative attesting that they are virgin bulls; and

C. The official identification number shall be written on the breeder's certificate.

3. A *[Certificate of Veterinary Inspection]* **CVI** listing official identification and test performed, date of test, results, and laboratory, if testing is required.

4. Bulls going directly to slaughter are exempt from Trichomoniasis testing.

*[(5)]***(3)** Swine.

[(A) Swine are classified as the following:

1. Commercial swine—swine that are continuously managed and have adequate facilities and practices to prevent exposures to feral swine;

2. Feral swine—any swine that are free roaming or Russian and Eurasian that are confined. This also includes javelinas and peccaries; and

3. Transitional swine—swine raised on dirt or that have reasonable opportunities to be exposed to feral swine.]

*[(B)]***(A)** An entry permit and a *[Certificate of Veterinary Inspection]* **CVI** is required on all classes of swine entering Missouri, except farm*[-]*of*[-]*origin swine consigned directly to an approved market or slaughter establishment.

*[(C)]***(B)** All commercial or transitional swine, individual and/or moving in a **group/lot** production system, entering Missouri, except farm*[-]*of*[-]*origin swine consigned to an approved market or slaughter establishment, must meet the following requirements:

1. Must be veterinarian inspected, individually identified by an official ear tag or group/lot identification number (GIN) as defined *[in Title 9, Code of Federal Regulations, Part 71, published annually in January, herein incorporated by reference and made a part of this rule, as published by the United States Superintendent of Documents, 732 N Capital Street NW, Washington, DC 20402-0001, phone: toll free (866) 512-1800, DC area (202) 512-1800, website: http://bookstore.gpo.gov]* **by official identification, or** ear notch, tattoo, or any other means of permanent identification approved by the state veterinarian and listed on the *[Certificate of Veterinary Inspection. This rule does not incorporate any subsequent amendments or additions]* **CVI**;

2. Originate from a validated swine brucellosis-free state or from a validated brucellosis-free herd (herd numbers and current herd test dates must be listed on the *[Certificate of Veterinary Inspection]* **CVI**); and

3. Originate from a pseudorabies stage V state or from a qualified negative pseudorabies herd (herd numbers and current herd test dates must be listed on the *[Certificate of Veterinary Inspection).]* **CVI; or**

4. Move on a swine health plan as defined in 9 CFR 71.1, and agreed upon by the state veterinarians of both the origin and destination states.

*[(D)]***(C)** All feral swine *[(including Eurasian and Russian swine) entering Missouri must—]* **are prohibited from entering Missouri.**

[1. Obtain an entry permit;

2. Be officially identified;

3. Be listed individually on a Certificate of Veterinary Inspection, in addition to age, gender, sex and permit number of feral swine facility of destination;

4. Must be from a validated and qualified herd (last test date and herd numbers must be listed on the Certificate of Veterinary Inspection); or

5. Have two (2) negative tests sixty (60) days apart for brucellosis and pseudorabies within thirty to sixty (30–60) days prior to movement. The laboratory and test date must be listed on the Certificate of Veterinary Inspection.

6. Feral swine moving directly from the farm-of-origin to an approved processing facility or to an approved slaughter-only facility will be exempt from any required testing.

(E) Transitional swine may move to a licensed livestock market/sale or to slaughter.

1. Feeder pigs from transitional swine herds may move from farm-of-origin to a market to be inspected and individually officially identified and then moved from the market under quarantine to be finished for slaughter.

2. All other transitional swine must move from market directly to slaughter.]

*[(6)]***(4)** *Equidae.* This includes exotic equine, donkeys, asses, burros, and zebras.

(A) All *equidae* (except nursing foals accompanied by their dams) bartered, donated, exchanged, gifted, leased, relinquished, sold, or otherwise involved in a change of ownership entering Missouri must be accompanied by –

1. A negative Equine Infectious Anemia (EIA) test within twelve (12) months prior to entry and documented on a VS Form 10-11 or any officially recognized federal/state EIA test chart showing the graphic description of all markings or imprinted photograph on any officially recognized federal/state EIA test chart needed for permanent identification.

A. For change of ownership (including leasing or gifting) an original VS Form 10-11 or any officially recognized federal/state EIA test chart is required*[.]***; and**

B. No *equidae* will be sold EIA test pending through private treaty; and

2. A *[Certificate of Veterinary Inspection]* **CVI** is required showing identification (registered legible tattoo, registered brand, microchip, or any other means of permanent identification approved by the state veterinarian) and description of each *equidae* listed on the *[Certificate of Veterinary Inspection]* **CVI**; or photograph of each *equidae* imprinted on the VS Form 10-11 or any officially recognized federal/state EIA test chart and **the date, results, and name of laboratory** listed on the *[Certificate of Veterinary Inspection]* **CVI**.

(B) For purpose of travel or exhibition, *[a certified photocopy or certified facsimile]* **an electronically generated copy** of the VS Form 10-11 or any officially recognized federal/state EIA test chart may be accepted.

[1. A certified photocopy is one (1) obtained from the testing veterinarian or accredited testing laboratory bearing seal or signature in the lower right-hand corner along with the date of certification in some ink color other than black.

2. A certified facsimile may be obtained only from the testing veterinarian or accredited testing laboratory and must bear the facsimile imprint of the originating facility clearly across the top of the page. It must also bear the date of the facsimile either along the top or in the lower right-hand corner.]

(C) For purpose of travel or exhibition, Missouri will accept six- (6-)*[-]*month passports from states with which there is a reciprocal agreement. These passports must meet the following criteria:

1. *[Proof of a]***A** negative EIA test within thirty (30) days of

the date of application of the passport;

2. Permanent identification for each horse by means of registered brand, legible tattoo, **or** imprinted photograph on any officially recognized federal/state EIA test chart, or electronic identification (microchip)*[;]***. Permanent identification is** to be recorded on the passport and the VS Form 10-11 or any officially recognized federal/state EIA test chart with other identifying characteristics;

3. Inspection by an accredited veterinarian **within thirty (30) days of the date of application of the passport**; and

4. In the event of confirmed *[v]***V**esicular *[s]***S**tomatitis in any of the states with which reciprocal agreements exist, use of the six- (6-)*[-]*month passport will be **immediately** suspended by the state veterinarian of Missouri.

(D) *Equidae* entering Missouri moving directly from a farm*[-]* of*[-]* origin (defined as maintained on premises for at least one hundred twenty (120) days) to a licensed Missouri livestock market/sale may be accompanied by a waybill or owner/shipper statement showing origin and destination, in lieu of a *[Certificate of Veterinary Inspection]* **CVI**.

(E) Alteration or substitution of any information on the VS Form 10-11 or any officially recognized federal/state EIA test chart, including *[certified photocopy and certified facsimile]* **any electronically generated copy**, or *[Certificate of Veterinary Inspection]* **CVI** shall cause the document to be invalid and in violation of sections 267.010 to 267.730, RSMo, and may result in civil penalties not to exceed ten thousand dollars ($10,000) per violation.

(F) Venezuelan Equine Encephalomyelitis (VEE) vaccination is required three (3) weeks prior to entry on *equidae* originating from states in which VEE has been diagnosed within the preceding twelve (12) months. An entry permit is also required on equine from those states.

(G) *Equidae* positive for brucellosis may not enter Missouri.

*[(7)]***(5)** Sheep (including exotic sheep and antelope).

[(A) All sheep, including exotic sheep and antelope, regardless of age or gender, bartered, exchanged, gifted, leased, or sold entering Missouri must be free of symptoms of infectious or contagious diseases.]

*[(B)]***(A)** All sheep (including exotic sheep and antelope), regardless of age or *[gender]* **sex**, must be individually identified by official scrapie identification as defined *[in Title 9, Code of Federal Regulations, Part 79, published annually in January, herein incorporated by reference and made a part of this rule, as published by the United States Superintendent of Documents, 732 N Capital Street NW, Washington, DC 20402-0001, phone: toll free (866) 512-1800, DC area (202) 512-1800, website: http://bookstore.gpo.gov]* **by official identification,** or any other means of identification approved by the state veterinarian identifying them to the flock*[-]*of*[-]* origin and listed on a *[Certificate of Veterinary Inspection. This rule does not incorporate any subsequent amendments or additions]* **CVI**.

*[(C)]***(B)** Flock*[-]*of*[-]* origin sheep (including exotic sheep and antelope) consigned directly to a licensed Missouri market/sale or a slaughter establishment must have individual official scrapie identification identifying them to the flock*[-]*of*[-]* origin, but *[will]* **are** not *[be]* required to have a *[Certificate of Veterinary Inspection]* **CVI**.

*[(D)]***(C)** Scrapie*[-]* positive, suspects, or high-risk animals may enter Missouri for immediate slaughter only and with specific approval from the state veterinarian.

[(E)](**D**) Sheep (including exotic sheep and antelope) from a scabies-quarantined area must be dipped or treated by an officially approved method within ten (10) days prior to entering Missouri.

*[(F)]***(E)** *[No tests or permit are required on sheep (including exotic sheep and antelope) entering Missouri.]* **All intact male sheep six (6) months of age or older require a negative *Brucella ovis* test within thirty (30) days of shipment (test date, results, and name of approved laboratory and accession number must be listed on the CVI); or**

1. Move from a certified *Brucella ovis* free flock (must be accompanied by the certificate number and date of last test).

(F) No permit is required for sheep entering Missouri.

*[(8)]***(6)** Goats (including exotic goats).

[(A) All goats (including exotic goats), regardless of age or gender, bartered, exchanged, gifted, leased, or sold entering Missouri must be free of symptoms of infectious or contagious diseases.]

*[(B)]***(A)** All goats (including exotic goats), regardless of age or *[gender]* **sex**, must be individually identified by official scrapie identification as defined *[in Title 9, Code of Federal Regulations, Part 79, published annually in January, herein incorporated by reference and made a part of this rule, as published by the United States Superintendent of Documents, 732 N Capital Street NW, Washington, DC 20402-0001, phone: toll free (866) 512-1800, DC area (202) 512-1800, website: http://bookstore.gpo.gov]* **by official identification,** or any other means of identification approved by the state veterinarian identifying them to the herd*[-]*of*[-]*origin and listed on a *[Certificate of Veterinary Inspection. This rule does not incorporate any subsequent amendments or additions]* **CVI**.

*[(C)]***(B)** Herd*[-]*of*[-]*origin goats (including exotic goats) consigned directly to a licensed Missouri market/sale or slaughter establishment must be individually identified by official scrapie identification identifying them to the herd*[-]* of*[-]* origin, but *[will]* **are** not *[be]* required to have a *[Certificate of Veterinary Inspection]* **CVI**.

*[(D)]***(C)** Scrapie*[-]* positive, suspects, or high-risk animals may enter Missouri for immediate slaughter only and with specific approval from the state veterinarian.

*[(E)]***(D)** No tests or permit are required on goats (including exotic goats) entering Missouri.

*[(9)]***(7)** Poultry and Waterfowl.

(A) Live poultry (except those consigned directly to slaughter) shall be accompanied by a *[Certificate of Veterinary Inspection]* CVI or a VS Form 9-3 (see 2 CSR 30-2.040). If a VS Form 9-3 is used, a signed and dated owner/shipper statement must be included stating that, to his/her best knowledge, the birds are healthy. Poultry known to be infected with pullorum or typhoid that are consigned directly to slaughter must be identified as such by the consignor.

(B) All poultry and hatching eggs imported into Missouri require an entry permit prior to shipment. Annual entry permits shall be issued by the department to participants in the National Poultry Improvement Plan (NPIP) or an equivalent program. Producers not approved by NPIP or an equivalent program must request a permit with each shipment.

*[(B)]***(C)** Live poultry entering Missouri must be tested negative for pullorum-typhoid within the past ninety (90) days or originate from a flock approved by the *[National Poultry Improvement Plan (]*NPIP*[)]* or an equivalent program which has been tested within the past twelve (12) months with no change of ownership*[.]***, except –**

1. Commercial table egg pullets and/or layer flocks – no pullorum-typhoid testing is required if the birds are documented to have originated from a known pullorum-

typhoid clean hatchery. Hatchery of origin must be written on the CVI or VS Form 9-3.

*[(C)]***(D)** Hatching eggs must be accompanied by a *[Certificate of Veterinary Inspection]* **CVI** certifying the eggs to be from pullorum-free flocks or by a VS Form 9-3.

[(D) All poultry and hatching eggs imported into Missouri require an entry permit prior to shipment. Annual entry permits shall be issued by the department to participants in the NPIP or an equivalent program. Producers not approved by NPIP or an equivalent program must request a permit with each shipment.]

*[(10)]***(8)** Captive Cervids.

(A) Captive cervids**,** including*[,]* but not limited to*[,]* elk, elk-hybrids, red deer, roe deer, white-tail deer, mule deer, sika deer, moose, reindeer, mu**n**tjac, and fallow deer that are bartered, exchanged, gifted, leased, or sold entering Missouri, regardless of age, must be veterinary inspected, individually identified **with two (2) forms of identification, with one (1) being an** official ear tag as defined *[in Title 9, Code of Federal Regulations, Part 71, published annually in January, herein incorporated by reference and made a part of this rule as published by the United States Superintendent of Documents, 732 N Capital Street NW, Washington, DC 20402-0001, phone: toll free (866) 512-1800, DC area (202) 512-1800, website: http://bookstore.gpo.gov,]* **by official identification,** or other means of permanent identification approved by the state veterinarian and listed on a *[Certificate of Veterinary Inspection. This rule does not incorporate any subsequent amendments or additions]* **CVI**.

(B) An entry permit is required.

(C) Brucellosis *[R]***r**equirement.

[1. All sexually intact animals six (6) months of age and over not in a status herd or under quarantine for brucellosis must test negative for brucellosis within ninety (90) days prior to movement except—

A. Brucellosis-free herd—captive cervids originating from certified brucellosis-free herds may enter on herd status without additional testing provided the certified herd number and current test date is listed on the Certificate of Veterinary Inspection; and

B. Brucellosis-monitored herd—all sexually intact animals six (6) months of age and older must test negative for brucellosis within ninety (90) days prior to interstate movement.]

1. No testing is required except –

A. No cervidae from the Greater Yellowstone Area or any brucellosis surveillance area will be allowed to enter Missouri.

(D) Tuberculosis *[R]***r**equirements.

1. Captive cervids, less than six (6) months of age, not known to be affected or exposed to tuberculosis**,** and not in a status herd must have one (1) negative tuberculosis test*[,]* within ninety (90) days prior to entering Missouri, using the single cervical method **or Dual Path Platform (DPP) test**. The negative test date must be listed on the *[Certificate of Veterinary Inspection]* **CVI**. Captive cervids must have been isolated from other captive cervids during the testing period.

2. Captive cervids, six (6) months of age and older, not known to be affected with or exposed to tuberculosis and not in a status herd, must have two (2) negative tuberculosis tests, not less than ninety (90) days apart, using the single cervical method **or DPP test**. The second test must be within ninety (90) days prior to movement. Both negative tests dates must be listed on the *[Certificate of Veterinary Inspection]* **CVI**. Captive cervids must have been isolated from other captive cervids during the testing period.

3. Movement from tuberculosis status herds.

A. Accredited herd – *[c]***C**aptive cervids originating from an accredited tuberculosis-free cervid herd may enter on herd status without additional testing provided the accredited herd number and current test date is listed on the *[Certificate of Veterinary Inspection]* **CVI**.

B. Qualified herd – *[c]***C**aptive cervids originating from a qualified herd must have one (1) negative tuberculosis test, using the single cervical method, within ninety (90) days prior to the date of movement.

C. Monitored herd – *[c]***C**aptive cervids originating from a monitored herd must have one (1) negative tuberculosis test, using the single cervical method, within ninety (90) days prior to the date of movement.

D. Captive cervids less than twelve (12) months of age *[that originate from and were]* born **with**in **and originating from** a status herd may be moved without further testing provided that they have not been exposed to captive cervids from a lower status herd.

(E) Chronic Wasting Disease **(CWD)**.

1. Captive cervids will not be allowed to enter the state if, within the last five (5) years, the animal –

A. Originates from an area or has been in an area that has been reported as a *[Chronic Wasting Disease (]*CWD*[)]* endemic area; and

B. Originates from a CWD positive captive herd.

2. *[Elk, elk-hybrids, red deer, roe deer, white-tailed deer, mule deer, sika deer, and moose]* **CWD susceptible cervids** entering Missouri from any state must have participated in a CWD certification program for five (5) consecutive years. *[Other cervids, including but not limited to, reindeer, muntjac, and fallow deer, must have participated in a certification program recognized by the state of origin prior to entering Missouri.]* Original anniversary date*[.]* must be listed on the Certificate of Veterinary Inspection*[;]***, except –**

A. Elk moving directly to slaughter are exempt from program participation requirements, but they still must meet the following requirements:

(I) Elk must have two (2) forms of identification, with one (1) being official, and listed on a Certificate of Veterinary Inspection; and

(II) Elk must obtain an entry permit.

3. CWD non-susceptible cervids entering Missouir from any state must have documentation of a current annual inspection conducted by an accredited veterinarian and record of current inventory.

*[3.]***4.** Captive cervids moving between publicly*[-]*owned American Zoos and Aquariums (AZA)*[-]*accredited zoos must meet the CWD certification program requirements.

*[(11)]***(9)** Alpacas, Camels, and Llamas.

(A) All alpacas, camels, *[and]* llamas**, and others of that group** bartered, exchanged, leased, sold, or relinquished entering Missouri (excluding livestock markets) must be accompanied by an official *[Certificate of Veterinary Inspection]* **CVI** showing an individual listing of the common name(s) of the animal(s) such as sex, age, weight, and coloration and be individually identified by official ear tag as defined *[in Title 9, Code of Federal Regulations, Part 71, published annually in January, herein incorporated by reference and made a part of this rule, as published by the United States Superintendent of Documents, 732 N Capital Street NW, Washington, DC 20402-0001, phone: toll free (866) 512-1800, DC area (202) 512-1800, website: http://bookstore.gpo.gov,]* **by official identification, or** microchip, tattoo, or any other means of permanent identification approved by the state veterinarian. *[This rule does not incorporate any subsequent amendments*

or additions.]

(B) No tests or permit *[is]* **are** required to enter Missouri.

*[(12)]***(10)** Ratites (including but not limited to ostrich, rheas, and emus).

(A) A *[Certificate of Veterinary Inspection]* **CVI** is required on all ratites bartered, exchanged, leased, sold, or relinquished entering Missouri, except farm*[-]*of*[-]*origin ratites consigned to an approved slaughter establishment. Ratites must be veterinary inspected and individually identified by official identification (leg band, microchip, wing band, legible tattoo, or other means approved by the state veterinarian) and listed on the *[Certificate of Veterinary Inspection]* **CVI**. Ear tags attached to the ratites are not acceptable.

(B) No tests or permit *[is]* **are** required on ratites entering Missouri.

*[(13)]***(11)** Psittacine birds, (including but not limited to macaws or parrots) except budgerigar, must have a *[Certificate of Veterinary Inspection]* **CVI** to enter Missouri.

*[(14)]***(12)** Dogs and Cats.

(A) All dogs and cats entering Missouri must be accompanied by a *[Certificate of Veterinary Inspection]* **CVI**. Dogs and cats over four (4) months of age must be vaccinated for rabies by one (1) of the methods and within the time period published in the *[current]* **March 1, 2016, edition of the** *Compendium of Animal Rabies Vaccines* by the National Association of State Public Health Veterinarians, Inc., incorporated by reference and made a part of this rule, as published by the United States *[Superintendent of Documents]* **Government Publishing Office**, 732 N**.** Capital Street NW, Washington DC 20402-0001, phone: toll free (866) 512-1800: DC area (202) 512-1800, website: http://bookstore.gpo.gov. This rule does not incorporate any subsequent amendments or additions.

(B) Any person who transports a domestic dog or cat from a foreign country into Missouri shall provide the recipient with a copy of that animal's *[Certificate of Veterinary Inspection]* **CVI** and when applicable, rabies vaccination information as prescribed in *[(14)]***(12)**(A) of this rule, not more than thirty (30) days after transfer of the dog or cat to the recipient.

(C) Any person who receives a domestic dog or cat from a foreign country into Missouri shall provide the state veterinarian with a copy of that animal's *[Certificate of Veterinary Inspection]* **CVI** and**,** when applicable, rabies vaccination information as prescribed in *[(14)]***(12)**(A) of this rule, not more than thirty (30) days after acquisition of the dog or cat.

(D) All dogs and cats must be eight (8) weeks of age to enter into commerce.

*[(15)]***(13)** Aquaculture. All aquaculture entering Missouri must **–**

(A) *[b]***B**e accompanied by a *[Certificate of Veterinary Inspection]* **CVI** and obtain an entry permit *[All Viral Hemorrhagic Septicemia (VHS) susceptible species must be tested in compliance with federal regulations; laboratory, test date, and results must be listed on the Certificate of Veterinary Inspection.]***; or**

(B) Move on an aquaculture health plan which includes annual testing and monthly movement reports. These plans must be agreed upon by the state animal health officials of both the origin and destination states.

(14) Miscellaneous Animals.

(A) All miscellaneous animals must be accompanied by an official CVI showing an individual listing of the common name(s) of the animal(s) and appropriate descriptions of animal(s) such as sex, age, weight, coloration, and the permanent identification.

(15) Exotic Animals.

(A) All exotic animals must be accompanied by an official CVI showing an individual listing of the common name(s) of the animal(s) and appropriate descriptions of animal(s) such as sex, age, weight, coloration, and the permanent identification.

(B) Elephants (Asiatic and African) and non-human primates must test negative for tuberculosis within one (1) year prior to entry.

(C) No tests are required for animals moving between publicly owned American Zoos and Aquariums (AZA) accredited zoos, but shipment must be accompanied by a CVI. Cervids moving between publicly owned AZA accredited zoos must meet the CDW monitoring requirements as outlined in subsection (10)(E). An entry permit is required on all animals moving between publicly owned American Zoos and Aquariums (AZA) accredited zoos.

[(16) Miscellaneous and Exotic Animals. All exotic animals must be accompanied by an official Certificate of Veterinary Inspection showing an individual listing of the common name(s) of the animal(s) and appropriate descriptions of animal(s) such as sex, age, weight, coloration, and the permanent identification.

(A) Elephants (Asiatic, African) must test negative for tuberculosis within one (1) year prior to entry.

(B) Importation of skunks and raccoons into Missouri is prohibited by the Missouri Wildlife Code, 3 CSR 10-9.

(C) No tests are required for animals moving between publicly-owned American Zoos and Aquariums (AZA)-accredited zoos, but must be accompanied by a Certificate of Veterinary Inspection. Cervids moving between publicly-owned AZA-accredited zoos must meet the chronic wasting disease monitoring requirements as outlined in subsection (10)(E). An entry permit is required on all animals moving between publicly-owned American Zoos and Aquariums (AZA)-accredited zoos.]

AUTHORITY: section 267.645, RSMo 2016. This version of rule filed Jan. 24, 1975, effective Feb. 3, 1975. For intervening history, please consult the ***Code of State Regulations****. Amended: Filed May 5, 2023.*

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment by website at https://agriculture.mo.gov/proposed-rules/ or by mail at Missouri Department of Agriculture, ATTN: Dr. Steve Strubberg, PO Box 630, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the ***Missouri Register****. No public hearing is scheduled.*

TITLE 2 – DEPARTMENT OF AGRICULTURE
Division 30 – Animal Health
Chapter 2 – Health Requirements for Movement of Livestock, Poultry, *Miscellaneous,* and Exotic Animals

PROPOSED AMENDMENT

2 CSR 30-2.020 Movement of Livestock, Poultry, *Miscellaneous,* and Exotic Animals Within Missouri. The department is amending the chapter and rule title, sections (1)–(9), deleting section (10), and adding new sections (10) and (11).

PURPOSE: This amendment prohibits all feral swine from moving within Missouri, updates how the VS Form 10-11 is accepted, updates procedures for managing EIA positive horses and removes the option of sending EIA and brucella positive horses to slaughter, separates requirements for exotic and miscellaneous animals, and removes brucellosis and tuberculosis testing requirement for cervids.

(1) Cattle, Bison, and Exotic Bovids.

(C) No Certificate of Veterinary Inspection **CVI** is required.

(D) Trichomoniasis (Excluding Bison and Exotic Bovids).

[1. Definitions.

A. Official laboratory—A Veterinary Diagnostic Laboratory operated by and under the direction of the state veterinarian, the University of Missouri Veterinary Medical Diagnostic Laboratory, or other diagnostic laboratories accredited by the American Association of Veterinary Laboratory Diagnosticians or member of the National Animal Health Laboratory Network.

B. Positive Trichomoniasis (Tritrichomonas foetus) bull—male bovine which has ever tested positive for Trichomoniasis (Tritrichomonas foetus).

C. Trichomoniasis—a venereal disease of cattle caused by the protozoan parasite species of Tritrichomonas foetus.

D. Positive Trichomoniasis (Tritrichomonas foetus) herd—a group of bovines that have commingled in the previous breeding season and in which an animal (male or female) has had a positive diagnosis for Tritrichomonas foetus.

E. Negative Trichomoniasis (Tritrichomonas foetus) herd—a group of bovines that have been commingled in the previous breeding season and all test-eligible bulls have tested negative for Tritrichomonas foetus within the previous twelve (12) months.]

*[F.]***1.** Test-eligible animal – *[a]***A**ny bull at least twenty-four (24) months of age or any non-virgin bull that is sold, leased, bartered, or traded in Missouri.

[G. Negative Trichomoniasis (Tritrichomonas foetus) bull—a bull with a series of three (3) negative cultures at least one (1) week apart or one (1) negative Polymerase Chain Reaction (PCR) test for Tritrichomonas foetus or two (2) negative PCR tests if commingled with a positive Trichomoniasis herd.]

2. All breeding bulls (excluding bison and exotic bovids) sold, bartered, leased, or traded within the state shall be –

A. Virgin bulls not more than twenty-four (24) months of age as determined by the presence of both permanent central incisor teeth in wear*[,]* or by breed registry papers; or

B. Tested negative for Trichomoniasis with an official *[culture test or official P]***p**olymerase *[C]***c**hain *[R]***r**eaction (PCR) test by an approved diagnostic laboratory **or any official test approved by the state veterinarian** within sixty (60) days prior to change in ownership or possession within the state.

(I) Bulls shall be tested *[three (3) times not less than one (1) week apart by an official culture test or]* one (1) time by an official PCR test **or any official test approve by the state veterinarian**.

(II) *[Shall]* **Bulls shall** be identified by official identification at the time the initial test sample is collected and the official identification recorded on the test documents.

(III) Bulls that have had contact with female cattle subsequent to or at the time of testing must be retested prior to movement*[;]*.

[C. The official identification, test results, date of test, test performed, and laboratory where test was performed must be included on the certificate of veterinary inspection.]

3. If the breeding bulls are virgin bulls and less than twenty-four (24) months of age, they shall be –

A. Individually identified by official identification; and

B. Accompanied with a breeder's certification of virgin status signed by the breeder or his representative attesting that they are virgin bulls.

C. The official identification number shall be written on the breeder's certificate.

4. Bulls going directly to slaughter are exempt from Trichomoniasis testing.

5. All positive *Tritrichomonas foetus* test results must be reported to the state veterinarian within seventy-two (72) hours of confirmation.

6. Procedures for managing a *Tritrichomonas foetus* positive herd –

A. An epidemiological investigation shall be performed on each infected herd.

(I) The Missouri Department of Agriculture shall notify adjacent herd owners that their herd may have been exposed to Trichomoniasis.

(II) The Missouri Department of Agriculture shall educate adjacent herd owners about Trichomoniasis, including a recommendation that adjacent herd owners have their herds tested for the disease.

(III) The Missouri Department of Agriculture may require the adjacent herd owner to test the adjacent herd for Trichomoniasis if it is indicated by the epidemiological investigation;

[5. Tritrichomonas foetus positive herd—]

*[A.]***B. A Positive Trichomoniasis herd** *[S]***s**hall be quarantined *[or sold directly to slaughter or to a licensed livestock market for slaughter only and shipped on a VS 1-27 permit]*.

(I) Any non-virgin female or female twelve (12) months of age or older may be sold directly to slaughter and move on a VS 1-27 permit or remain quarantined.

(II) Positive bulls shall be sent directly to slaughter or to a licensed livestock market for slaughter only and shipped on a VS 1-27 permit.

(III) Positive animals shall be identified by a state issued t*[e]***a**mper-evident ear tag;

*[B.]***C.** The quarantine shall be released upon the following:

(I) All bulls in a positive *Tritrichomonas foetus* herd shall have tested negative *[to three (3) consecutive official Tritrichomonas foetus culture tests or]* **on** two (2) consecutive official *Tritrichomonas foetus* PCR tests **or any official test approved by the state veterinarian** at least one (1) week apart. The initial negative test is included in the series of negative tests required; and

(II) Female(s) *[has]* **with** a calf at side *[(with]* **and has had** no exposure to other than known negative *Tritrichomonas foetus* bulls since parturition*[)]*, **or** has one hundred twenty (120) days of sexual isolation, or is determined by an accredited

veterinarian to be at least one hundred twenty (120) days pregnant;

[C. An epidemiological investigation shall be performed on each infected herd.

(I) The Missouri Department of Agriculture shall notify adjacent herd owners that their herd may have been exposed to Trichomoniasis.

(II) The Missouri Department of Agriculture shall educate adjacent herd owners about Trichomoniasis, including a recommendation that adjacent herd owners have their herds tested for the disease.

(III) The Missouri Department of Agriculture may require the adjacent herd owner to test the adjacent herd for Trichomoniasis if it is indicated by the epidemiological investigation;]

D. A request for reclassification of a positive bull shall be considered by the state veterinarian, providing the owner or agent submits a written request to the state veterinarian within ten (10) business days of the initial positive test result being reported to the owner agent;

E. Upon receipt of a request for reclassification the state veterinarian shall conduct an investigation that shall include*[,]* but is not limited to*[,]* further analysis of the original positive sample, additional testing of the positive bull, and/or review of the herd record data for the bull in question. The owner or agent must pay the expenses for all tests conducted by or requested by the state veterinarian on the owner's herd; and

F. The state veterinarian shall send a written response to the owner or agent stating why the reclassification was or was not granted within ten (10) business days after the investigation is completed.

[6. All positive Tritrichomonas foetus test results must be reported to the state veterinarian within seventy-two (72) hours of confirmation.]

(2) Swine.

[(A) Swine in Missouri are classified as follows:

1. Commercial swine—swine that are continuously managed and have adequate facilities and practices to prevent exposures to feral swine;

2. Feral swine—swine that are free roaming or Russian and Eurasian that are confined. This includes javelinas and peccaries; and

3. Transitional swine—swine raised on dirt or that have reasonable opportunities to be exposed to feral swine.]

*[(B)]***(A)** Commercial Swine **and Transitional Swine**.

1. *[All swine (except slaughter swine) exchanged, bartered, gifted, leased, or sold within Missouri must be veterinary inspected and individually identified by official ear tag or group lot identification number (GIN) as defined in Title 9, Code of Federal Regulations, Part 71, published annually in January, herein incorporated by reference and made a part of this rule, as published by the United States Superintendent of Documents, 732 N Capital Street NW, Washington, DC 20402-0001, phone: toll free (866) 512-1800, DC area (202) 512-1800, website: http://bookstore.gpo.gov, ear notch, tattoo, or any other means of permanent identification approved by the state veterinarian. This rule does not incorporate any subsequent amendments or additions.]* **No CVI is required.**

2. Brucellosis. No test is required for movement of swine from herds not under quarantine for brucellosis*[, and no Certificate of Veterinary Inspection is required]*.

3. Pseudorabies. No test is required for movement of swine from herds not under quarantine for pseudorabies*[, and no Certificate of Veterinary Inspection is required]*.

*[(C)]***4.** All Missouri origin sows and boars not under quarantine **and** sold for slaughter are to be individually identified by a backtag, ear tag, tattoo, or other approved device at the first point of concentration.

*[(D)]***5.** All feral swine *[(including Eurasian and Russian) moving within Missouri must:]* **are prohibited from movement within Missouri.**

[1. Obtain an entry permit;

2. Be officially identified;

3. Be listed individually on a Certificate of Veterinary Inspection, in addition to age, gender, and permit number of feral swine facility of destination;

4. Be from a validated and qualified herd, last test date, and herd numbers must be listed on the Certificate of Veterinary Inspection; or

5. Have two (2) negative tests sixty (60) days apart for brucellosis and pseudorabies within thirty to sixty (30–60) days prior to movement. The laboratory and test date must be listed on the Certificate of Veterinary Inspection.

6. Feral swine moving directly from the farm-of-origin to an approved processing facility or to an approved slaughter-only facility will be exempt from required testing.

(E) Transitional swine may move only to a licensed livestock market/sale or to slaughter.

1. Feeder pigs from transitional swine herds may move from farm-of-origin to a market to be inspected and officially identified by official ear tag, and then moved from the market under quarantine to be finished for slaughter.]

(3) *Equidae*. This includes exotic equine, donkeys, asses, burros, and zebras.

(A) Change of Ownership.

1. All *equidae* (except nursing foals accompanied by their dams) bartered, donated, exchanged, gifted, leased, relinquished, sold, or otherwise involved in a change of ownership*[,]* must have an official negative Equine Infectious Anemia (EIA) test within twelve (12) months prior to change of ownership or lease.

2. All change of ownership or leasing must be accompanied by the original owner's copy of the VS Form 10-11 or any officially recognized federal/state EIA test chart showing the graphic description of all markings or imprinted photograph on any officially recognized federal/state EIA test chart needed for permanent identification.

3. No photocopies *[or facsimiles]* of the VS Form 10-11 are valid for change of ownership or leasing.

4. No *equidae* will be sold EIA test pending through private treaty.

(B) Boarding, Breeding, and Training Facilities.

1. All *equidae* assembled at boarding, breeding, or training stables shall be tested negative for EIA within the preceding twelve (12) months.

2. The owner/manager of the premises is responsible for maintaining proof of current negative EIA test for each animal*[; a certified photocopy or certified facsimile]* **either the original VS From 10-11 or any officially recognized federal/state EIA test chart, or an electronically generated copy of the VS Form 10-11 or any officially recognized federal/state EIA test chart** is acceptable proof of a current negative EIA test.

[A. A certified photocopy is one obtained from the testing veterinarian or accredited testing laboratory bearing seal or signature in the lower right-hand corner along with the date of certification of the photocopy in some ink color other than black.

B. A certified facsimile is one obtained from the testing veterinarian or accredited testing laboratory bearing the

facsimile imprint of the originating facility clearly across the top of the page. The form must be completed and legible. It must show the date of transmission, either along the top or in the lower right-hand corner.]

(C) *Equidae* Owned, Leased, or Rented by a Business or Public Entity.

1. *Equidae* owned, leased, or rented by a business or public entity that congregate with privately*[-]*owned *equidae* or other *equidae* offering the same service must have an official negative EIA test within the preceding twelve (12) months.

2. The owners or managers shall be responsible for maintaining *[proof (]*either the original VS Form 10-11 or any officially recognized federal/state EIA test chart, *[certified photocopy, or certified facsimile of]* **or electronically generated copy** of the VS Form 10-11*[)],* **or any officially recognized federal/state EIA test chart recording a** current negative test for each animal being used for the service. These records shall be available for inspection by a veterinarian or animal health officer employed by the Department of Agriculture or a veterinarian or animal health technician employed by United States Department of Agriculture (USDA), Animal and Plant Health Inspection Services (APHIS) – Veterinary Services.

(D) All managed or sponsored trail rides, rodeos, or competitions must require an official negative EIA test within twelve (12) months prior to the event.

1. The manager or sponsor of each assembly or event shall be responsible for ensuring that each animal is accompanied by proof of an official negative EIA test (either the original VS Form 10-11 or *[certified photocopy or certified facsimile of the VS Form 10-11]* **any officially recognized federal/state EIA test chart, or an electronically generated copy of the VS Form 10-11, or any officially recognized federal/state EIA test chart**), and shall not allow *equidae* not so certified to participate in the event or to congregate with other *equidae.*

2. These records shall accompany the animal and shall be available for inspection by state/federal personnel as well as show/event personnel establishing compliance with regulations.

3. The owner of each animal is also responsible to comply with these requirements under sections 267.010 to 267.730, RSMo, and may result in assessed civil penalties not to exceed ten thousand dollars ($10,000) for each violation.

(E) Alteration or substitution of any information on any VS Form 10-11 or any officially recognized federal/state EIA test chart, including *[certified photocopy and certified facsimile,]* **any electronically generated copy,** or *[Certificate of Veterinary Inspection]* **CVI** shall cause the document to be invalid and in violations of sections 267.010 to 267.730, RSMo, and may result in civil penalties, not to exceed ten thousand dollars ($10,000) per violation.

(F) Procedures for Handling Missouri EIA Positive *Equidae*.

1. Upon notification of a positive EIA test from any accredited laboratory, the positive animal(s) will be permanently identified by microchip **implantation**, quarantined, and isolated at least two hundred (200) yards from any other *equidae*.

2. All *equidae* determined or believed to be exposed to the positive animal will be quarantined, permanently identified by microchip **implantation**, and blood collected by a veterinarian employed by the Missouri Department of Agriculture or a veterinarian employed by USDA, APHIS*[-]* – Veterinary Services, or a licensed accredited deputy veterinarian acting under the direction of the state veterinarian for official EIA testing.

3. The original reactor animal is to be tested a second time within thirty (30) days of the first positive test. The second sample will be drawn by state or federal regulatory personnel and will be submitted to *[a Department of Agriculture Animal Health Diagnostic Laboratory]* **an official laboratory approved by regulatory officials**. The owner may request that the sample be split and *[submit]* one (1) **sample submitted** to a private accredited laboratory of their choice at their own expense. *[There will be no laboratory charge for retests of positive or exposed animals submitted to a Department of Agriculture Animal Health Diagnostic Laboratory.]*

4. Upon confirmation of positive status by a Department of Agriculture Animal Health Diagnostic Laboratory and the National Veterinary Services Laboratory, the positive animal will be freeze-branded on the left side of the neck with an alphanumeric code that indicates the state of Missouri (by the number 43), EIA positive *[by]* (**by** AP), the last digit of the year*[,]* **(by the last digit of the year in which the animal was found positive),** followed by the positive EIA case number for that year **(for instance, the first case would be 01)**. The freeze-brand will be a minimum of two inches (2") high and seven (7) characters long. **The positive animal will also have a microchip implanted by a regulatory official.**

5. The owner or a representative of the owner must decide within fifteen (15) days the disposition of the positive animal with the following options:

[A. Ship to an approved slaughter establishment on a VS Form 1-27 shipping permit issued by a veterinarian or animal health officer employed by the Department of Agriculture or a veterinarian or animal health technician employed by USDA, APHIS-Veterinary Services. Market veterinarians may issue a VS Form 1-27 shipping permit for positive animals going directly to slaughter from a licensed livestock market/sale;]

*[B.]***A.** Euthanasia with a written statement from the attending veterinarian, including date and disposition of the animal(s); or

*[C.]***B.** Permanently quarantined, with the owner agreeing to abide by all the stipulations required by signing an EIA Quarantine Affidavit (MO Form 350-1052).

6. All other *equidae* owned/managed or leased will be placed under quarantine for sixty (60) days after removal of the last known positive animal. Two (2) negative EIA tests will be required to be released from quarantine. The first test **shall be considered** at the time exposure was discovered and the second test **at** sixty (60) days or more after the removal of the last known positive animal.

A. All exposed animals will be permanently identified by electronic microchip.

B. Blood samples will be drawn by a veterinarian or animal health officer employed by the Department of Agriculture or a veterinarian or an animal health technician employed by USDA, APHIS-Veterinary Services**,** and submitted to *[a Department of Agriculture Animal Health Diagnostic Laboratory (]* **an official laboratory approved by regulatory officials** at no charge*[)]*.

C. Foals from EIA positive mares will acquire passive antibody to EIA in the colostrum and may test positive for more than six (6) months. In these cases, the foal will be quarantined for at least sixty (60) days after weaning or separation from all positive equids and up to one (1) year of age, pending negative EIA test results. If the animal is still test-positive by one (1) year of age, it is considered infected and will be handled as *[such]* **a Missouri EIA Positive *Equidae***.

7. Violation of quarantine by any person in possession of the positive animal(s) or exposed animal(s) or refusal to test or to allow microchip implanting will be in violation of section 267.603, RSMo, and may result in civil penalties, not to exceed one thousand dollars ($1,000) for each violation and penalties, not to exceed five hundred dollars ($500) for each day such

person fails to cooperate as required **under this subsection**.

(G) Brucellosis in *Equidae*. All equine showing signs of fistulous withers or poll evil will be tested for brucellosis. Samples must be submitted to *[the Cooperative State and Federal Veterinary Diagnostic Laboratory in Jefferson City, Missouri]* **an official laboratory approved by regulatory officials**.

1. All positive animals will be *[shipped to slaughter on a VS Form 1-27 shipping permit or be placed under a special order of quarantine]* **euthanized and a written statement from the attending veterinarian, including date and disposition of the animal(s) provided to the department upon request**.

(4) Sheep.

(A) All sheep (including exotic sheep and antelope), regardless of age or *[gender]* **sex**, **which are** exchanged, bartered, gifted, leased, or sold within Missouri must be free of symptoms of infectious or contagious diseases.

(B) *[All]* **As defined by official identification all** sheep (including exotic sheep and antelope), regardless of age or *[gender]* **sex**, must be individually identified by official scrapie identification as defined *[in Title 9, Code of Federal Regulations, Part 79, published annually in January, herein incorporated by reference and made a part of this rule, as published by the United States Superintendent of Documents, 732 N Capital Street NW, Washington, DC 20402-0001, phone: toll free (866) 512-1800, DC area (202) 512-1800, website: http://bookstore.gpo.gov]***,** or any other means approved by the state veterinarian identifying them to the flock*[-]* of*[-]* origin. *[This rule does not incorporate any subsequent amendments or additions.]*

(C) No tests or *[Certificate of Veterinary Inspection]* **CVI** is required.

(D) All suspected or confirmed cases of scrapie must be reported immediately to the state veterinarian.

(E) All sheep (including exotic sheep and antelope) from a scrapie infected or source flock will be individually identified and quarantined. Official identification is required on any live scrapie*[-]* positive, suspect, or high*[-]* risk animal of any age and of any sexually intact exposed animal of more than one (1) year of age or any sexually intact exposed animal of less than one (1) year of age upon change of ownership (except for exposed animals moving in slaughter channels at less than one (1) year of age), whether or not the animal resides in a source or infected flock.

(F) Quarantine release will be issued **by the state veterinarian** according to Title 9, *Code of Federal Regulations,* Part 79, published *[annually in January]* **March 25, 2019**, herein incorporated by reference and made a part of this rule, as published by the United States *[Superintendent of Documents]* **Government Publishing Office**, 732 N**.** Capital Street NW, Washington, DC 20402-0001, phone: toll free (866) 512-1800, DC area (202) 512-1800, website: http://bookstore.gpo.gov. This rule does not incorporate any subsequent amendments or additions.

(5) Goats (Including Exotic Goats).

(A) All goats (including exotic goats), regardless of age or *[gender]* **sex**, **which are** exchanged, bartered, gifted, leased, or sold within Missouri must be free of symptoms of infectious or contagious diseases.

(B) All goats (including exotic goats), regardless of age or *[gender]* **sex**, must be individually identified by official scrapie identification as defined *[in Title 9, Code of Federal Regulations, Part 79, published annually in January, herein incorporated by reference and made a part of this rule, as published by the United States Superintendent of Documents, 732 N Capital Street NW, Washington, DC 20402-0001, phone: toll free (866) 512-1800, DC area (202) 512-1800, website: http://bookstore.gpo.gov,]* **by official identification,** or any other means approved by the state veterinarian identifying them to the herd*[-]* of*[-]* origin. *[This rule does not incorporate any subsequent amendments or additions.]*

(C) No tests or *[Certificate of Veterinary Inspection]* **CVI** is required.

(D) All suspected or confirmed cases of scrapie must be reported immediately to the state veterinarian.

(E) All goats (including exotic goats) from a scrapie infected or source herd will be individually identified and quarantined. Official identification is required on any live scrapie*[-]* positive, suspect, or high*[-]* risk animal of any age and of any sexually intact exposed animal of more than one (1) year of age or any sexually intact exposed animal of less than one (1) year of age upon change of ownership (except for exposed animals moving in slaughter channels at less than one (1) year of age), whether or not the animal resides in a source or infected flock.

(F) Quarantine release will be issued **by the state veterinarian** according to the Title 9, *Code of Federal Regulations,* Part 79, published *[annually in January]* **March 25, 2019**, herein incorporated by reference and made a part of this rule, as published by the United States *[Superintendent of Documents]* **Government Publishing Office**, 732 N**.** Capital Street NW, Washington, DC 20402-0001, phone: toll free (866) 512-1800, DC area (202) 512-1800, website: http://bookstore.gpo.gov. This rule does not incorporate any subsequent amendments or additions.

(6) Captive Cervids.

(A) Captive cervids**,** including*[,]* but not limited to*[,]* elk, elk-hybrids, red deer, roe deer, white-tailed deer, mule deer, sika deer, moose, reindeer, mu**n**tjac, and fallow deer**,** exchanged, bartered, gifted, leased, or sold **with**in Missouri must be individually identified *[by]* **with two (2) froms of identification, with one (1) being an** official ear tag as defined *[in Title 9, Code of Federal Regulations, Part 71, published by the United States Superintendent of Documents, 732 N Capital Street NW, Washington, DC 20402-0001, phone: toll free (866) 512-1800, DC area (202) 512-1800, website: http://bookstore.gpo.gov,]* **by official identification,** legible tattoo, or any other means of permanent identification approved by the state veterinarian and be individually listed on a *[Certificate of Veterinary Inspection]* **CVI** or a Breeder's Movement Certificate. *[This rule does not incorporate any subsequent amendments or additions.]*

1. Breeder's Movement Certificate. A form provided by the Missouri Department of Agriculture (MDA) which documents the movement of cervids within Missouri*[. The form]* **and** may be completed by the breeder and must list the official identification, age, *[gender]* **sex**, species of the cervids moving within Missouri, and a complete address of the farm of origin and destination. The form will also list any required testing and Chronic Wasting Disease (CWD) status of the herd of origin. The original will accompany the shipment, and a copy will be submitted to the MDA within thirty (30) days of movement.

[(B) Brucellosis Requirements.

1. All sexually intact animals six (6) months of age and older, not under quarantine and not affected with brucellosis, must have a negative brucellosis test within one (1) year prior to movement (negative test date must be listed on the Certificate of Veterinary Inspection or on the Breeder's Movement Certificate) except—

A. Captive cervids originating from certified brucellosis-free herds may move on the current herd number and test date;

B. Captive cervids moving directly to a slaughter facility;

C. Captive cervids moving directly to a big game hunting preserve; and

D. Movement to a licensed livestock market or premises of licensed dealer provided the cervids are tested within five (5) days and are quarantined and isolated pending test results. All records must be kept for five (5) years and available for inspection by a representative of the MDA upon request.

(C) Tuberculosis Requirements.

1. Captive cervids, six (6) months of age and older, not known to be affected or exposed to tuberculosis and not in a status herd, must have one (1) tuberculosis test, within one (1) year prior to movement, using the single cervical method or program-approved test (negative test date must be listed on the Certificate of Veterinary Inspection or listed on a Breeder's Movement Certificate), except—

A. Captive cervids originating from accredited tuberculosis-free herds may move on the current herd number and test date;

B. Captive cervids moving directly to a slaughter facility;

C. Captive cervids moving directly to a big game hunting preserve; and

D. Movement to a licensed livestock market or premises of licensed dealer provided the cervids are tested within five (5) days and are quarantined and isolated pending test results. All records must be kept for five (5) years and available for inspection by a representative of the MDA upon request.]

*[(D)]***(B)** Chronic Wasting Disease **(CDW)**.

1. All **CWD susceptible** cervids over one (1) year of age must be enrolled in a CWD program sponsored by the Department of Agriculture. Original anniversary date must be listed on the *[Certificate of Veterinary Inspection]* **CVI** or Breeder's Movement Certificate. After January 1, 2013, all cervids must have a CWD Status Level of 1 to move within Missouri.

2. CWD susceptible cervids must have documentation of a current annual inspection conducted by an accredited veterinarian and record of current inventory.

*[2.]***3.** All suspected or confirmed cases of CWD must be reported to the state veterinarian.

*[3.]***4.** All captive cervids from infected or source herds will be quarantined **until the animal(s) meet provisions for release by the state veterinarian**.

*[(E)]***(C)** Hunting Preserves.

1. Must be permitted with the Missouri Department of Conservation (MDC) and comply with all regulations of the **Missouri** Wildlife Code **(3 CSR 10-9)**.

2. Must maintain records of all purchased and harvested cervids.

A. Documentation must be maintained for five (5) years and provided for inspection to *[MDA]* **Missouri Department of Agriculture** and *[MDC]* **Missouri Department of Conservation** authorities upon request. Records required include the name and address of *[the]* **any** individual harvesting *[the]* **any** animal, identification and origin (**including** owner and address) of the harvested animal, and *[Certificate of Veterinary Inspection]* **CVI** or Breeder's Movement Certificate required for movement.

B. Any cervids entering the hunting preserve must be officially identified and listed on a *[Certificate of Veterinary Inspection]* **CVI** or Breeder's Movement Certificate.

(7) Alpacas, Camels, and Llamas. No testing, identification, or *[Certificate of Veterinary Inspection]* **CVI** is required on alpacas, camels, and llamas **and others of that group** exchanged, bartered, leased, relinquished, or sold within Missouri (excluding livestock markets).

(8) Ratites. No testing, identification, or *[Certificate of Veterinary Inspection]* **CVI** is required on ratites (including but not limited to ostrich, rheas, and emus) exchanged, bartered, leased, relinquished, or sold within Missouri (excluding livestock markets).

(9) Dogs and Cats.

(A) All dogs and cats exchanged, bartered, leased, *[relinquished,]* or sold within Missouri over four (4) months of age must be vaccinated by one (1) of the methods and within the time period published in the *[current] Compendium of Animal Rabies Vaccines* **March 1, 2016** by the National Association of State Public Health Veterinarians, Inc., incorporated by reference and made a part of this rule, as published by the United States *[Superintendent of Documents]* **Government Publishing Office**, 732 N**.** Capital Street NW, Washington DC 20402-0001, phone: toll free (866) 512-1800: DC area (202) 512-1800, website: http://bookstore.gpo.gov. This rule does not incorporate any subsequent amendments or additions.

(B) All dogs and cats must be eight (8) weeks of age to enter into commerce.

[(10) Miscellaneous and Exotic Animals. All exotic animals must be accompanied by an official Certificate of Veterinary Inspection showing an individual listing of the common name(s) of the animal(s) and appropriate descriptions of animal(s) such as sex, age, weight, coloration, and permanent identification.

(A) Elephants (Asiatic, African) must be tested negative for tuberculosis within one (1) year prior to movement.

(B) Animals moving between publicly-owned American Association of Zoological Parks and Aquariums (AAZPA)-accredited zoos are exempt from the requirement through this regulation except cervids moving between publicly-owned Association of Zoos and Aquariums (AZA)-accredited zoos must meet the chronic wasting disease monitoring requirements as outlined in subsection (6)(D).]

(10) Miscellaneous Animals.

(A) No CVI is required.

(B) All miscellaneous animals exchanged, bartered, leased, relinquished, or sold within Missouri must be free of symptoms of infectious or contagious diseases.

(11) Exotic Animals.

(A) All exotic animals must be accompanied by an official CVI showing an individual listing of the common name(s) of the animal(s) and appropriate descriptions of animal(s) such as sex, age, weight, coloration, and permanent identification.

(B) Elephants (Asiatic and African) and non-human primates must be tested negative for tuberculosis within one (1) year prior to movement.

(C) Animals moving between publicly owned American Association of Zoological Parks and Aquariums (AAZPA)-accredited zoos are exempt from the requirement through this regulation except cervids moving between publicly owned Association of Zoos and Aquariums (AZA) accredited zoos must meet the chronic wasting disease monitoring requirements as outlined in subsection (6)(B).

AUTHORITY: section 267.645, RSMo 2016. Original rule filed April 18, 1975, effective April 28, 1975. For intervening history, please

*consult the **Code of State Regulations**. Amended: Filed May 5, 2023.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment by website at https://agriculture.mo.gov/proposed-rules/ or by mail at Missouri Department of Agriculture, ATTN: Dr. Steve Strubberg, PO Box 630, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

TITLE 2 – DEPARTMENT OF AGRICULTURE
Division 30 – Animal Health
Chapter 2 – Health Requirements for Movement of Livestock, Poultry, *Miscellaneous,* and Exotic Animals

PROPOSED AMENDMENT

2 CSR 30-2.040 Animal Health Requirements for Exhibition. The department is deleting section (1), renumbering as necessary, and amending new sections (1)–(15).

PURPOSE: This amendment removes material incorporated by reference, adds requirements for cattle and swine moving within the sate for exhibition, changes the TB testing requirement for dairy cattle two (2) months and older to (6) months and older, updates how the VS Form 10-11 is accepted, separates requirements for exotic and miscellaneous animals, adds a requirement for Brucella ovis testing in sheep coming into Missouri for exhibition, removes brucellosis testing requirement for cervids unless form any Brucellosis surveillance area, and allows CWD non-susceptible cervids to move into the state without having to be in a CWD program.

[(1) Certificate of Veterinary Inspection.

(A) The term Certificate of Veterinary Inspection (including paper copy of an electronic Certificate of Veterinary Inspection) means an official document signed by an accredited, licensed veterinarian. The official Certificate of Veterinary Inspection shall state that the animals are free of visible signs of contagious, infectious, or communicable disease, describe the animal(s) by species, breed, sex, and age. In addition to the individual animal identification(s), the Certificate of Veterinary Inspection shall reflect all data for required tests and vaccinations, all dates, results, and the name of the laboratory. All breed-specific data requirements for the Certificate of Veterinary Inspection are located in the subsection relating to that breed.]

*[(B)]***(1)** Animals with active lesions of ringworm with resulting loss of hair or warts easily visible without close examination will not be permitted to exhibit and shall be subject to isolation or expulsion depending upon the nature and seriousness of the disease.

*[(C)]***(2)** Scheduled breed association sales with shows in conjunction with the sales *[will]* **must** employ accredited veterinarians other than state regulatory personnel for *[processing]* **examining** animals and **processing** Certificate of Veterinary Inspections **(CVI)** *[for]* **upon** change of ownership.

*[(2)]***(3)** The *[following]* listed minimal health and testing requirements on livestock are for exhibition only and do not qualify livestock to be sold or moved to a new owner or destination.

*[(A)]***(4)** Exhibition Requirements for Cattle, Bison, and Exotic Bovids.

*[1.]***(A)** Intrastate (Missouri origin cattle and bison moving for exhibition only).

*[A.]***1.** *[No]* **A** *[Certificate of Veterinary Inspection]* **CVI** is required.

2. All animals must be individually identified by an official ear tag as defined by official identification, or registration tattoo, or any other means approved by the state veterinarian, be individually listed on a CVI, and be free of clinical signs of infectious or contagious disease.

*[B.]***3.** Brucellosis – no test is required.

*[C.]***4.** Tuberculosis – no test is required.

*[2.]***(B)** Interstate (cattle, bison, and exotic bovids entering Missouri for exhibition only).

1. A CVI is required.

*[A.]***2.** All animals must be individually identified by an official ear tag as defined *[in Title 9, Code of Federal Regulations, Part 71, published annually in January, herein incorporated by reference and made a part of this rule, as published by the United States Superintendent of Documents, 732 N Capital Street NW, Washington, DC 20402-0001, phone: toll free (866) 512-1800, DC area (202) 512-1800, website: http://bookstore.gpo.gov,]* **by official identification,** registration tattoo, or any other means approved by the state veterinarian *[and]* **be individually** listed on the *[Certificate of Veterinary Inspection]* **CVI** *[This rule does not incorporate any subsequent amendments or additions]* **and be free of clinical signs of infectious or contagious disease**.

*[B.]***3.** Brucellosis.

*[(I)]***A.** Cattle from brucellosis-free states. **No brucellosis test or entry permit is required.**

[(a) All sexually intact cattle may enter without a brucellosis test.

(b) Steers. No brucellosis test required but must be individually identified and listed on a Certificate of Veterinary Inspection.]

*[(II)]***B.** *[Sexually intact c]***C**attle from brucellosis Class A states.

(I) Test-eligible animals include all sexually intact animals eighteen (18) months of age and over.

(II) All test-eligible *[animals]* **cattle** must be tested and negative within thirty (30) days prior to entry except –

(a) Cattle from a certified brucellosis-free herd. The certified herd number and the date of the last test must be listed on the *[Certificate of Veterinary Inspection]* **CVI**;

*[(b)]***(III)** Steers. No brucellosis test required but must be individually identified and listed on a *[Certificate of Veterinary Inspection]* **CVI**; and

*[(c)]***(IV)** Rodeo bulls from a Class A state must have a negative brucellosis test within twelve (12) months prior to exhibition.

*[C.]***4.** Tuberculosis.

A. Beef cattle – All classes of beef cattle (including exotic bovids and bison), two (2) months of age and older, entering Missouri for exhibition must meet the following requirements:

(I) All classes of beef cattle entering Missouri for exhibition from a state having a tuberculosis-free status may enter without additional testing requirements or entry permit;

(II) All classes of beef cattle, six (6) months of age and older, entering Missouri for exhibition from a state having a tuberculosis status less than free must meet the following requirements:

(a) Must obtain an entry permit;

(b) Must have a negative tuberculosis test within sixty (60) days of shipment, test date must be listed on the CVI; or

(c) Move from an accredited tuberculosis-free herd (herd test date must be listed on the CVI); or

(d) Move directly from a herd of origin that has had one (1) complete negative herd test within one (1) year (date of test must be listed on the CVI)

(III) All classes of beef cattle, less than six (6) months of age, entering Missouri for exhibition from a state having a tuberculosis status less than free must meet the following requirements:

(a) Must obtain an entry permit;

(b) Move from an accredited tuberculosis-free herd (herd test date must be listed on the CVI); or

(c) Move directly from a herd of origin that has had one (1) complete negative herd test within one (1) year (date of test must be listed on the CVI)

*[(I)]***B.** Dairy – *[a]***A**ll classes of dairy cattle, two (2) months of age and older, entering Missouri for exhibition must meet the following requirements:

*[(a)]***(I)** Must obtain an entry permit;

*[(b)]***(II) All sexually intact dairy cattle six 6 months and older** *[M]***m**ust have a negative tuberculosis test within sixty (60) days of shipment, test date must be listed on the *[Certificate of Veterinary Inspection]* **CVI**; or

[(c)](III) Move from an accredited tuberculosis-free herd (herd test date must be listed on the *[Certificate of Veterinary Inspection]* **CVI**); or

[(d)](IV) Move directly from a herd of origin that has had one (1) complete negative herd test within one (1) year (date of test must be listed on the *[Certificate of Veterinary Inspection]* **CVI***[.]***; and**

(V) All dairy cattle, both breeding and feeding, must be officially individually identified and listed on a CVI.

[(II) Beef—all classes of beef cattle (including exotic bovids and bison), two (2) months of age and older, entering Missouri for exhibition must meet the following requirements:

(a) All classes of beef cattle, two (2) months of age and older, entering Missouri for exhibition from a state having a tuberculosis-free status may enter without additional testing requirements or entry permit;

(b) All classes of beef cattle, two (2) months of age and older, entering Missouri for exhibition from a state having a tuberculosis status less than free must meet the following requirements:

I. Must obtain an entry permit;

II. Must have a negative tuberculosis test within sixty (60) days of shipment, test date must be listed on the Certificate of Veterinary Inspection; or

III. Move from an accredited tuberculosis-free herd (herd test date must be listed on the Certificate of Veterinary Inspection); or

IV. Move directly from a herd of origin that has had one (1) complete negative herd test within one (1) year (date of test must be listed on the Certificate of Veterinary Inspection).]

*[(III)]***C.** Rodeo Livestock.

*[(a)]***(I)** Rodeo livestock, eighteen (18) months of age and older, must be tested negative for tuberculosis every twelve (12) months and obtain an entry permit prior to entering Missouri.

*[(b)]***(II)** No sexually intact rodeo stock from Mexico will be permitted to enter Missouri without a *[current]* **negative** tuberculosis test **within sixty (60) days of shipment (test date must be listed on the CVI)**.

*[(B)]***(5)** Exhibition Requirements for Swine *[(exhibition of feral swine is prohibited)]*.

*[1.]***(A)** Intrastate (Missouri origin swine moving for exhibition only).

[A. All swine to be exhibited must be free of clinical signs of infectious or contagious disease.]

*[B.]***1**. *[No]* **A** *[Certificate of Veterinary Inspection]* **CVI** is required.

2. All swine must be individually identified by official ear tag as defined by official identification, or ear notch, tattoo, or any other means of permanent identification approved by the state veterinarian, be individually listed on a CVI, and be free of clinical signs of infectious or contagious disease.

*[C.]***3.** Brucellosis. No test is required.

*[D.]***4.** Pseudorabies. No test is required.

*[2.]***(B)** Interstate (swine entering Missouri for exhibition only).

*[A.]***1.** All swine must be individually identified by official ear tag as defined *[in Title 9, Code of Federal Regulations, Part 71, published annually in January, herein incorporated by reference and made a part of this rule, as published by the United States Superintendent of Documents, 732 N Capital Street NW, Washington, DC 20402-0001, phone: toll free (866) 512-1800, DC area (202) 512-1800, website: http://bookstore.gpo.gov,]* **by official identification, or** ear notch, tattoo, or any other means of permanent identification approved by the state veterinarian**,** *[and]* be individually listed on a *[Certificate of Veterinary Inspection]***, CVI** and free of clinical signs of infectious or contagious disease. *[This rule does not incorporate any subsequent amendments or additions. An entry permit is required.]*

2. An entry permit is required.

*[B.]***3.** Brucellosis.

*[(I)]***A.** Swine originating from brucellosis-free states may exhibit without a brucellosis test.

*[(II)]***B.** Swine originating from a state having a brucellosis status less than free must be tested negative within sixty (60) days prior to exhibition except –

(I) *[b]***B**reeding swine from a validated brucellosis-free herd. The validated herd number and date of last validating test must be listed on the *[Certificate of Veterinary Inspection]* **CVI**.

*[C.]***4.** Pseudorabies.

*[(I)]***A.** Swine originating from a state classified as Stage V in the National Pseudorabies (PRV) Eradication Plan may exhibit without a pseudorabies test.

*[(II)]***B.** All other swine must be tested negative within sixty (60) days prior to exhibition except –

(I) [s]**S**wine from a qualified pseudorabies-free herd. The qualified herd number and date of the last qualifying test must be listed on the *[Certificate of Veterinary Inspection]* **CVI**.

*[(C)]***(6)** Exhibition Requirements for *Equidae* (including exotic equine, donkeys, asses, burros, and zebras).

*[1.]***(A)** Intrastate (Missouri origin horses and other *equidae* moving for exhibition).

*[A.]***1**. *Equidae* must be free of clinical signs of an infectious or contagious disease. Any *equidae* showing signs of infectious or contagious disease at an exhibition shall be excused by the official inspecting veterinarian. When an official inspecting veterinarian is present, all *equidae* will be subject to daily inspection.

*[B.]***2.** A *[Certificate of Veterinary Inspection]* **CVI** is not required.

*[C.]***3.** All *equidae* (except nursing foals accompanied by their dams) must be accompanied by a current VS Form 10-11 or any officially recognized federal/state Equine Infectious Anemia (EIA) test chart showing test date within twelve (12) months prior to exhibition for each animal, the name of the EIA accredited testing laboratory and the test accession number assigned by the laboratory, the graphic description of all markings needed for identification, or microchip, or legible tattoo, or unique registered brand or imprinted photograph on any officially recognized federal/state EIA test chart. *[A certified photocopy or certified facsimile]* **An electronically generated copy** of the VS Form 10-11 or any officially recognized federal/state EIA test chart may be accepted for the purpose of exhibition.

[(I) A certified photocopy is one obtained from the testing veterinarian or accredited testing laboratory bearing seal or signature in the lower right-hand corner along with the date of certification of photocopy in some ink other than black.

(II) A certified facsimile may be obtained only from the testing veterinarian or accredited testing laboratory and must bear the facsimile imprint of the originating facility clearly across the top of the page. It must also bear the date of facsimile either along the top or in the lower right-hand corner.]

*[(III)]***A.** Alteration or substitution of any information on any VS Form 10-11 or any officially recognized federal/state EIA test chart, including *[certified photocopies, certified facsimiles]* **electronically generated copy**, or *[Certificate of Veterinary Inspections,]* CVI shall cause the document to be invalid and in violation of sections 267.010 to 267.730, RSMo, and may result in civil penalties not to exceed ten thousand dollars ($10,000) per violation and subject to expulsion.

*[2.]***(B)** Interstate (including exotic equine, donkeys, asses, burros, and zebras).

*[A.]***1.** *Equidae* must be free of clinical signs of an infectious or contagious disease. Any *equidae* showing signs of infectious or contagious diseases at an exhibition shall be excused by the official inspecting veterinarian. When an official inspecting veterinarian is present, all *equidae* will be subject to daily inspection.

*[B.]***2.** A *[Certificate of Veterinary Inspection]* **CVI** is required on all *equidae* (except nursing foals accompanied by their dams) showing identification and description of *equidae* listed and negative test results of an official EIA test, showing test date within twelve (12) months prior to exhibition for each animal, and the name of the EIA-accredited testing laboratory and the test accession number assigned by the laboratory. All *equidae* entering without an official *[Certificate of Veterinary Inspection]* **CVI** and/or EIA test shall be excused from the show until proper documentation and test are available.

*[C.]***3.** All *equidae* (except nursing foals accompanied by their dams) must be accompanied by a current VS Form 10-11 or any officially recognized federal/state *[Equine Infectious Anemia (]*EIA*[)]* test chart showing test date within twelve (12) months prior to exhibition for each animal, the name of the EIA accredited testing laboratory and the test accession number assigned by the laboratory, the graphic description of all markings needed for identification or microchip, or legible tattoo, or unique registered brand or imprinted photograph on any officially recognized federal/state EIA test chart. *[A certified photocopy or certified facsimile]* **An electronically generated copy** of the VS Form 10-11 or any officially recognized federal/state EIA test chart may be accepted for the purpose of exhibition.

[(I) A certified photocopy is one obtained from the testing veterinarian or accredited testing laboratory bearing seal or signature in the lower right-hand corner along with the date of certification of photocopy in some ink color other than black.

(II) A certified facsimile may be obtained only from the testing veterinarian or accredited testing laboratory and must bear the facsimile imprint of the originating facility clearly across the top of the page. It must also bear the date of the facsimile either along the top or in the lower right-hand corner.]

*[(III)]***A.** Alteration or substitution of any information on any VS Form 10-11 or any officially recognized federal/state EIA test chart, including *[certified photocopies, certified facsimiles]* **electronically generated copy**, or *[Certificate of Veterinary Inspection,]* **CVI** shall cause the document to be invalid and in violation of sections 267.010 to 267.730, RSMo, and may result in civil penalties not to exceed ten thousand dollars ($10,000) per violation and subject to expulsion.

*[D.]***4**. A six- (6-)*[-]*month passport from states with which there is a reciprocal agreement will be accepted in lieu of a *[Certificate of Veterinary Inspection]* **CVI**. These passports must have *[proof]* **records** of a negative EIA test within thirty (30) days of the date of application of the passport and permanent identification for each horse recorded on the passport and the VS Form 10-11 or any officially recognized federal/state EIA test chart, along with other identifying characteristics. In the event of confirmed vesicular stomatitis in any of the states with which reciprocal agreements exist, use of the six (6)-month passport will be **immediately** suspended by the state veterinarian of Missouri.

*[E.]***5.** Venezuelan *[Equidae]* **Equine** Encepha*[-]*lomyelitis (VEE) vaccination and entry permit is required prior to entry on *equidae* originating from states in which VEE has been diagnosed within the preceding twelve (12) months.

[F. Any equidae from a premise under quarantine for vesicular stomatitis shall obtain an entry permit and must include the statement on the Certificate of Veterinary Inspection that "the equidae listed have not been exposed to vesicular stomatitis within the past thirty (30) days."]

*[G.]***6**. The board, organization, or manager of each assembly or event is responsible for certifying that all *equidae* admitted or participating meet the regulations in this section and shall not admit or allow participation of *equidae* not so certified. Untested *equidae* shall not be allowed to congregate with other *equidae*. The owner of each animal shall comply with requirements under sections 267.010 to 267.730, RSMo, and may be assessed civil penalties not to exceed ten thousand dollars ($10,000) for each violation.

[(D)](**7**) Exhibition Requirements for Sheep (including exotic sheep and antelope).

*[1.]***(A)** Intrastate *– [(]*Missouri origin sheep (including exotic sheep and antelope) moving for exhibition*[)]*.

*[A.]***1.** All sheep (including exotic sheep and antelope), regardless of age or *[gender]* **sex**, must be free of clinical signs of an infectious or contagious disease.

*[B.]***2.** All sheep (including exotic sheep and antelope), regardless of age or *[gender]* **sex**, must be individually identified by an official scrapie identification as defined *[in Title 9, Code of Federal Regulations, Part 79, published annually in*

January, herein incorporated by reference and made a part of this rule, as published by the United States Superintendent of Documents, 732 N Capital Street NW, Washington, DC 20402-0001, phone: toll free (866) 512-1800, DC area (202) 512-1800, website: http://bookstore.gpo.gov] **by official identification**, or any other means of permanent identification approved by the state veterinarian identifying them to the flock*[-]* of*[-]* origin and be listed on a *[Certificate of Veterinary Inspection]* **CVI**. *[This rule does not incorporate any subsequent amendments or additions.]*

*[C.]***3.** No tests are required.

*[D.]***4.** Scabies.

*[(I)]***A.** Sheep from a scabies*[-]* quarantined area must be dipped or treated by an officially approved method within ten (10) days prior to exhibition.

*[2.]***(B)** Interstate – *[(s]***S**heep (including exotic sheep and antelope) entering Missouri for exhibition only*[)]*.

*[A.]***1.** All sheep (including exotic sheep and antelope), regardless of age or *[gender]* **sex**, must be free of clinical signs of an infectious or contagious disease.

*[B.]***2.** All sheep (including exotic sheep and antelope), regardless of age or *[gender]* **sex**, must be individually identified by an official scrapie identification as defined *[in Title 9, Code of Federal Regulations, Part 79, published annually in January, herein incorporated by reference and made a part of this rule, as published by the United States Superintendent of Documents, 732 N Capital Street NW, Washington, DC 20402-0001, phone: toll free (866) 512-1800, DC area (202) 512-1800, website: http://bookstore.gpo.gov]*, **by official identification** or any other means of permanent identification approved by the state veterinarian identifying them to the flock*[-]* of*[-]* origin and be listed on a *[Certificate of Veterinary Inspection]* **CVI**. *[This rule does not incorporate any subsequent amendments or additions.]*

*[C.]***3.** *[No tests or entry permit is required.]***All rams six (6) months of age and older must have a negative *Brucella ovis* test within thirty (30) days of shipment (test date, results, and name of approved laboratory must be listed on the CVI); or**

A. Move from a certified *Brucella ovis* free flock (must be accompanied by the certificate number and date of last test).

*[D.]***4.** Scabies.

*[(I)]***A.** Sheep (including exotic sheep and antelope) from a scabies*[-]* quarantined area must be dipped or treated by an officially approved method within ten (10) days prior to exhibition.

*[(II)]***B.** A permit number must be obtained and recorded on a *[Certificate of Veterinary Inspection]* **CVI** if the sheep (including exotic sheep and antelope) are from a scabies*[-]* quarantined area.

*[(E)]***(8)** Exhibition Requirements for Goats (including exotic goats).

*[1.]***(A)** Intrastate – *[(]*Missouri origin goats (including exotic goats) moving for exhibition only*[)]*.

*[A.]***1.** All goats (including exotic goats), regardless of age or *[gender]* **sex**, must be free of clinical signs of an infectious or contagious disease.

*[B.]***2.** All goats (including exotic goats), regardless of age or gender, must be individually identified by an official scrapie identification as defined *[in Title 9, Code of Federal Regulations, Part 79, published annually in January, herein incorporated by reference and made a part of this rule, as published by the United States Superintendent of Documents, 732 N Capital Street NW, Washington, DC 20402-0001, phone: toll free (866) 512-1800, DC area (202) 512-1800, website: http://bookstore.gpo.gov,]* **by official identification** or any other means of permanent identification approved by the state veterinarian identifying them to the herd*[-]*of*[-]*origin and *[be]* listed on a *[Certificate of Veterinary Inspection]* **CVI**. *[This rule does not incorporate any subsequent amendments or additions.]*

*[C.]***3.** No test is required.

*[2.]***(B)** Interstate – *[(g]***G**oats (including exotic goats) entering Missouri for exhibition only*[)]*.

*[A.]***1.** All goats (including exotic goats) must be free of clinical signs of an infectious or contagious disease.

*[B.]***2.** All goats (including exotic goats), regardless of age or *[gender]* **sex**, must be individually identified by an official scrapie identification as defined *[in Title 9, Code of Federal Regulations, Part 79, published annually in January, herein incorporated by reference and made a part of this rule, as published by the United States Superintendent of Documents, 732 N Capital Street NW, Washington, DC 20402-0001, phone: toll free (866) 512-1800, DC area (202) 512-1800, website: http://bookstore.gpo.gov,]* **by official identification** or any other means of permanent identification approved by the state veterinarian identifying them to the herd*[-]* of*[-]* origin and *[be]* listed on a *[Certificate of Veterinary Inspection. This rule does not incorporate any subsequent amendments or additions]* **CVI**.

*[C.]***3.** No tests or entry permits are required.

*[(F)]***(9)** Exhibition Requirements for Poultry.

*[1.]***(A)** Intrastate (Missouri origin poultry moving for exhibition).

*[A.]***1.** All poultry must be free of clinical signs of any infectious or contagious disease.

*[B.]***2.** No *[Certificate of Veterinary Inspection]* **CVI** is required.

*[C.]***3.** Pullorum-typhoid. All poultry exhibited (except Missouri origin waterfowl) shall be tested negative for pullorum-typhoid within ninety (90) days prior to exhibition or equivalent program in which the flock has been tested within the past twelve (12) months with no change of ownership. This information shall be documented on a VS Form 9-2 (see 2 CSR 30-8.020) or similar certificate which shall accompany the poultry to the exhibition and shall be made available on request.

*[2.]***(B)** Interstate (poultry entering Missouri for exhibition only).

*[A.]***1.** All poultry must be free of clinical signs of any infectious or contagious disease.

*[B.]***2.** A *[Certificate of Veterinary Inspection]* **CVI**, VS Form 9-2 or similar certificate is required.

*[C.]***3.** Pullorum-typhoid test. All poultry exhibited shall be tested negative for pullorum-typhoid within ninety (90) days prior to exhibition or originate from a flock approved by the National Poultry Improvement Plan (NPIP) or an equivalent program in which the flock has been tested within the past twelve (12) months with no change of ownership. This information shall be documented on a *[Certificate of Veterinary Inspection]* **CVI**, a VS Form 9-2 (see 2 CSR 30-8.020) or similar certificate which shall accompany the poultry to exhibition and shall be made available on request.

*[D.]***4.** An entry permit is required.

*[3.]***(C)** Requirements for sponsoring exhibitions for poultry.

*[A.]***1.** An official representing the person or organization sponsoring *[the]* **any poultry** exhibition shall notify the state veterinarian no later than thirty (30) days prior to the exhibition giving the names, place, inclusive dates**,** and times of the event.

*[B.]***2.** Recordkeeping. The sponsor of the exhibition shall

compile a list of all poultry present at the exhibition. The list shall contain the name and address or voluntary premises identification number of each owner and the number, species, breed, variety, type, sex, and pullorum-typhoid status of all poultry present. A copy of this list shall be retained by the sponsor of the exhibition for at least twelve (12) months and shall be made available upon request to a representative of the department.

*[C.]***3.** Inspection. Poultry must be free of clinical signs of an**y** infectious or contagious disease. Any poultry showing signs of infectious or contagious disease at an exhibition may be excused by the official inspecting veterinarian or department representative.

*[D.]***4.** Pullorum-typhoid status. All poultry (except Missouri origin waterfowl) exhibited shall be tested negative for pullorum-typhoid within the past ninety (90) days or originate from a flock approved by the *[National Poultry Improvement Plan (]*NPIP*[)]* or equivalent program in which the flock has been tested within the past twelve (12) months with no change of ownership. This information shall be documented on a VS Form 9-2 (see 2 CSR 30-8.020) or similar certificate which shall be made available on request.

*[(G)]***(10)** Exhibition Requirements for Captive Cervids.

*[1.]***(A)** Intrastate (Missouri origin captive cervids moving for exhibition **only**).

*[A.]***1**. All captive cervids must be accompanied by a *[Certificate of Veterinary Inspection]* **CVI** and individually identified by official ear tag as defined *[in Title 9, Code of Federal Regulations, Part 71, published annually in January, herein incorporated by reference and made a part of this rule as published by the United States Superintendent of Documents, 732 N Capital Street NW, Washington, DC 20402-0001, phone: toll free (866) 512-1800, DC area (202) 512-1800, website: http://bookstore.gpo.gov,]* **by official identification** or any other means of permanent identification approved by the state veterinarian and must not *[comingle]* **commingle** with other animals **and must be individually listed on a CVI or a breeder's movement certificate**. *[This rule does not incorporate any subsequent amendments or additions.]*

A. Breeder's Movement Certificate. A form provided by the Missouri Department of Agriculture (MDA) which documents the movement of cervids within Missouri and may be completed by the breeder and must list the official identification, age, sex, species of the cervids moving within Missouri, and a complete address of the farm of origin and destination. The form will also list any required testing and Chronic Wasting Disease status of the herd of origin. The original will accompany the shipment, and a copy will be submitted to the MDA within thirty (30) days of movement.

B. Chronic Wasting Disease (CDW).

(I) All CWD susceptible cervids over one (1) year of age must be enrolled in a CWD program sponsored by the Department of Agriculture. Original anniversary date must be listed on the CVI or Breeder's Movement Certificate. After January 1, 2013, all cervids must have a CWD Status Level of 1 to move within Missouri.

(II) CWD non-susceptible cervids must be enrolled in Missouri's Registered Cervid Herd Program prior to movement within the state.

*[2.]***(B)** Interstate (captive cervids entering Missouri for exhibition only).

*[A.]***1**. All captive cervids must be accompanied by a *[Certificate of Veterinary Inspection]* **CVI** and individually identified by official ear tag as defined *[in Title 9, Code of Federal Regulations, Part 71, published annually in January, herein incorporated by reference and made a part of this rule as published by the United States Superintendent of Documents, 732 N Capital Street NW, Washington, DC 20402-0001, phone: toll free (866) 512-1800, DC area (202) 512-1800, website: http://bookstore.gpo.gov,]* **by official identification** or any other means of permanent identification approved by the state veterinarian and must not *[comingle]* **commingle** with other animals. *[This rule does not incorporate any subsequent amendments or additions.]*

2. An entry permit is required.

*[B.]***3.** Brucellosis *[R]*requirements.

A. No testing is required, except –

(I) No cervidae from the Greater Yellowstone Area or any brucellosis surveillance area will be allowed to enter Missouri.

[(I) All sexually intact animals six (6) months of age and older must test negative for brucellosis within ninety (90) days prior to exhibition except—

(a) Captive cervids that originate from a brucellosis-free herd. The herd number and the date of the last herd test must be listed on the Certificate of Veterinary Inspection; and

(b) Captive cervids that originate from a brucellosis-monitored herd. The herd number and the date of the last herd test must be listed on the Certificate of Veterinary Inspection.]

*[C.]***4.** Tuberculosis.

*[(I)]***A.** Captive cervids*[,]* – *[l]***L**ess than six (6) months of age, not known to be affected or exposed to tuberculosis and not in a status herd must have one (1) negative tuberculosis test, using the single cervical method **or Dual Path Platform (DPP) test**, within ninety (90) days prior to entering Missouri. The negative test date must be listed on the *[Certificate of Veterinary Inspection]* **CVI**. Captive cervids must have been isolated from other captive cervids during the testing period.

*[(II)]***B.** Captive cervids, six (6) months of age and older, not known to be affected *[with]* or exposed to tuberculosis and not in a status herd must have two (2) negative tuberculosis tests, not less than ninety (90) days apart, using the single cervical method **or DPP test** prior to *[exhibition]* **entering Missouri**. The second test must be within ninety (90) days prior to exhibition. Both negative test dates must be listed on the *[Certificate of Veterinary Inspection]* **CVI**. Captive cervids must have been isolated from other captive cervids during the testing period.

*[(III)]***C.** Movement from tuberculosis status herds.

*[(a)]***(I)** Accredited herd – Captive *[cerivds]* **cervids** originating from an accredited tuberculosis-free cervid herd may enter on herd status without additional testing provided the accredited herd number and current test date is listed on the *[Certificate of Veterinary Inspection]* **CVI**.

*[(b)]***(II)** Qualified herd – Captive cervids originating from a qualified herd must have one (1) negative tuberculosis test, using the single cervical method, within ninety (90) days prior to the date of exhibition.

*[(c)]***(III)** Monitored herd – Captive cervids originating from a monitored herd must have one (1) negative tuberculosis test, using the single cervical method, within ninety (90) days prior to the date of movement.

*[(d)]***(IV)** Captive cervids less than twelve (12) months of age *[that originate from and were]* born **with**in **and originating from** a status herd may be moved without further testing provided that they have not been exposed to captive cervids from a lower status herd.

*[D.]***5**. Chronic wasting disease. *[All captive cervids must*

be enrolled in an approved surveillance program by the state of origin for five (5) years.

E. An entry permit is required.]

A. Captive cervids will not be allowed to enter the state if, within the last five (5) years, the animal –

(I) Originates from an area or has been in an area that has been reported as a CWD endemic area; and

(II) Originates from a CWD positive captive herd.

B. CWD susceptible cervids entering Missouri from any state must have participated in a CWD certification program for five (5) consecutive years. Original anniversary date must be listed on the CVI.

C. CWD non-susceptible cervids entering Missouri from any state must have documentation of a current annual inspection conducted by an accredited veterinarian and record of current inventory.

D. Captive cervids moving between publicly owned American Zoos and Aquariums (AZA) accredited zoos must meet the CWD certification program requirements.

*[(H)]***(11)** Exhibition Requirements for Alpacas, Camels, and Llamas.

*[1.]***(A)** Intrastate (Missouri origin alpacas, camels, llamas, and others of that group moving for exhibition).

*[A.]***1.** All alpacas, camels, llamas, and others of that group must be free of clinical signs of infectious or contagious disease.

2. No CVI is required.

*[2.]***(B)** Interstate (alpacas, camels, llamas, and others of that group entering Missouri for exhibition only).

*[A.]***1.** All alpacas, camels, llamas, and others of that group must be free of clinical signs of infectious or contagious diseases.

*[B.]***2.** All alpacas, camels, and llamas and others of that group must be accompanied by an official *[Certificate of Veterinary Inspection]* **CVI** showing an individual listing of the common name(s) of the animal(s) such as sex, age, weight, coloration, and the official ear tag as defined *[in Title 9, Code of Federal Regulations, Part 71, published annually in January, herein incorporated by reference and made a part of this rule, as published by the United States Superintendent of Documents, 732 N Capital Street NW, Washington, DC 20402-0001, phone: toll free (866) 512-1800, DC area (202) 512-1800, website: http://bookstore.gpo.gov,]* **by official identification,** microchip, tattoo, or any other means of permanent identification approved by the state veterinarian. *[This rule does not incorporate any subsequent amendments or additions.]*

*[C.]***3.** No test is required.

*[D.]***4.** No permit is required.

(12) Exhibition Requirements for Ratites.

(A) Intrastate.

1. Ratites (including but not limited to ostrich, rheas, and emus) must be veterinarian inspected and individually identified as defined, or by leg band, microchip, wing band, legible tattoo, or any other means approved by the state veterinarian and listed on the CVI.

(B) Interstate.

1. Ratites (including but not limited to ostrich, rheas, and emus) must be veterinarian inspected and individually identified as defined, or by leg band, microchip, wing band, legible tattoo, or any other means approved by the state veterinarian and listed on the CVI.

2. No test is required.

*[(I)]***(13)** Exhibition Requirements for Dogs and Cats.

*[1.]***(A)** Intrastate (Missouri origin dogs and cats moving for exhibition).

*[A.]***1.** Dogs and cats must be free of clinical signs of infectious or contagious disease.

*[B.]***2.** No *[Certificate of Veterinary Inspection]* **CVI** is required.

*[C.]***3.** Dogs and cats, four (4) months of age and older, must be vaccinated for rabies by one (1) of the methods and within the time period published in the *[current]* **March 1, 2016 edition of the** *Compendium of Animal Rabies Vaccines* by the National Association of State Public Health Veterinarians, Inc., incorporated by reference and made a part of this rule, as published by the United States *[Superintendent of Documents]*, **Government Publishing Office** 732 N**.** Capital Street NW, Washington, DC 20402-0001, phone: toll free (866) 512-1800, DC area (202) 512-1800, website: http://bookstore.gpo.gov. This rule does not incorporate any subsequent amendments or additions.

*[2.]***(B)** Interstate (dogs and cats entering Missouri for exhibition only).

*[A.]***1.** Dogs and cats must be free of clinical signs of infectious or contagious disease.

*[B.]***2.** A *[Certificate of Veterinary Inspection]* **CVI** is required.

*[C.]***3.** All dogs and cats, four (4) months of age and older, must be vaccinated for rabies by one (1) of the methods and within the time period published in the *[current]* **March 1, 2016 edition of the** *Compendium of Animal Rabies Vaccines* by the National Association of State Public Health Veterinarians, Inc., incorporated by reference and made a part of this rule, as published by the United States *[Superintendent of Documents]* **Government Publishing Office**, 732 N**.** Capital Street NW, Washington, DC 20402-0001, phone: toll free (866) 512-1800, DC area (202) 512-1800, website: http://bookstore.gpo.gov. This rule does not incorporate any subsequent amendments or additions.

*[D.]***4.** No entry permit is required.

(14) Exhibition Requirements for Miscellaneous Animals.

(A) Intrastate (Missouri origin miscellaneous animals moving for exhibition only).

1. Miscellaneous animals must be free of clinical signs of any infectious or contagious disease.

(B) Interstate (miscellaneous animals entering Missouri for exhibition only).

1. All miscellaneous animals must be free of clinical signs of any infectious or contagious disease.

2. A CVI is required showing an individual listing of the common name(s) of the animal(s) and appropriate descriptions of animal(s) such as sex, age, weight, coloration, and must be individually identified as defined, or by any other means approved by the state veterinarian and listed on the CVI.

(15) Exhibition Requirements for Exotic Animals.

(A) Intrastate (Missouri origin exotic animals moving for exhibition only).

1. A CVI is required showing an individual listing of the common name(s) of the animal(s), appropriate descriptions of animal(s) such as sex, age, weight, coloration, and individually identified as defined by official identification or any other means approved by the state veterinarian and listed on the CVI.

2. Elephants (Asiatic, African) and non-human primates must be tested negative for tuberculosis within one (1) year prior to exhibition.

3. No tests are required for animals moving between publicly owned American Zoological and Aquariums (AZA) accredited zoos, except cervids moving between publicly owned American Zoological and Aquariums (AZA) accredited zoos must meet the chronic wasting disease monitoring requirements as outlined in section (10).

(B) Interstate (exotic animals entering Missouri for exhibition only).

1. All exotic animals must be free of clinical signs of any infectious or contagious disease.

2. A CVI is required showing an individual listing of the common name(s) of the animal(s) and appropriate descriptions of animal(s) such as sex, age, weight, coloration, and must be individually identified as defined by official identification, or any other means approved by the state veterinarian and listed on the CVI.

3. Elephants (Asiatic and African) and non-human primates must be tested negative for tuberculosis within one (1) year prior to exhibition.

4. No tests are required for animals moving between publicly owned American Zoological and Aquariums (AZA) accredited zoos but must be accompanied by a CVI. Cervids moving between publicly owned American Zoological and Aquariums (AZA) accredited zoos must meet the CWD monitoring requirements as outlined in section (10). An entry permit is required on all animals moving between publicly-owned American Zoos and Aquariums (AZA) accredited zoos.

[(J) Exhibition Requirements for Miscellaneous and Exotic Animals.

1. Intrastate (Missouri origin miscellaneous and exotic animals moving for exhibition).

A. Miscellaneous and exotic animals must be free of clinical signs of any infectious or contagious disease.

B. A Certificate of Veterinary Inspection is required showing an individual listing of the common name(s) of the animal(s), appropriate descriptions of animal(s) such as sex, age, weight, coloration, and individually identified as defined in Title 9, Code of Federal Regulations, Part 71, published annually in January, herein incorporated by reference and made a part of this rule, as published by the United States Superintendent of Documents, 732 N Capital Street NW, Washington, DC 20402-0001, phone: toll free (866) 512-1800, DC area (202) 512-1800, website: http://bookstore.gpo.gov, or any other means approved by the state veterinarian and listed on the Certificate of Veterinary Inspection. This rule does not incorporate any subsequent amendments or additions.

C. Elephants (Asiatic, African) must be tested negative for tuberculosis within one (1) year prior to exhibition.

D. Ratites (including but not limited to ostrich, rheas, and emus) must be veterinarian inspected and individually identified as defined in Title 9, Code of Federal Regulations, Part 71, published annually in January, herein incorporated by reference and made a part of this rule, as published by the United States Superintendent of Documents, 732 N Capital Street NW, Washington, DC 20402-0001, phone: toll free (866) 512-1800, DC area (202) 512-1800, website: http://bookstore.gpo.gov, by leg band, microchip, wing band, legible tattoo, or any other means approved by the state veterinarian and listed on the Certificate of Veterinary Inspection. This rule does not incorporate any subsequent amendments or additions. No test is required.

E. No tests are required for animals moving between publicly-owned American Zoological and Aquariums (AZA)-accredited zoos, except cervids moving between publicly-owned American Zoological and Aquariums (AZA)-accredited zoos must meet the chronic wasting disease monitoring requirements as outlined in subparagraph (2)(G)2.D.

2. Interstate (miscellaneous and exotic animals entering Missouri for exhibition only).

A. All miscellaneous and exotic animals must be free of clinical signs of any infectious or contagious disease.

B. A Certificate of Veterinary Inspection is required showing an individual listing of the common name(s) of the animal(s) and appropriate descriptions of animal(s) such as sex, age, weight, coloration, and must be individually identified as defined in Title 9, Code of Federal Regulations, Part 71, published annually in January, herein incorporated by reference and made a part of this rule, as published by the United States Superintendent of Documents, 732 N Capital Street NW, Washington, DC 20402-0001, phone: toll free (866) 512-1800, DC area (202) 512-1800, website: http://bookstore.gpo.gov, or any other means approved by the state veterinarian and listed on the Certificate of Veterinary Inspection. This rule does not incorporate any subsequent amendments or additions.

C. Elephants (Asiatic, African) must be tested negative for tuberculosis within one (1) year prior to exhibition.

D. Ratites (including but not limited to ostrich, rheas, and emus) must be veterinarian inspected and individually identified as defined in Title 9, Code of Federal Regulations, Part 71, published annually in January, herein incorporated by reference and made a part of this rule, as published by the United States Superintendent of Documents, 732 N Capital Street NW, Washington, DC 20402-0001, phone: toll free (866) 512-1800, DC area (202) 512-1800, website: http://bookstore.gpo.gov, by leg band, microchip, wing band, legible tattoo, or any other means approved by the state veterinarian and listed on the Certificate of Veterinary Inspection. This rule does not incorporate any subsequent amendments or additions. No test is required.

E. Importation of skunks and raccoons into Missouri is prohibited by the Missouri Wildlife Code (3 CSR 10-9).

F. No tests are required for animals moving between publicly-owned American Zoological and Aquariums (AZA)-accredited zoos but must be accompanied by a Certificate of Veterinary Inspection. Cervids moving between publicly-owned American Zoological and Aquariums (AZA)-accredited zoos must meet the chronic wasting disease monitoring requirements as outlined in subparagraph (2)(G)2.D. An entry permit is required on all animals moving between publicly-owned American Zoos and Aquariums (AZA)-accredited zoos.]

*AUTHORITY: section 267.645, RSMo **[2000] 2016**. Emergency rule filed June 28, 1977, effective July 8, 1977, expired Nov. 5, 1977. Original rule filed June 28, 1977, effective Oct. 13, 1977. For intervening history, please consult the **Code of State Regulations**. Amended: Filed May 5, 2023.*

PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions one thousand six hundred dollars ($1600) in the aggregate.

PRIVATE COSTS: This proposed amendment will cost private entities approximately one hundred sixty thousand dollars ($160,000) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment by website at https://agriculture.mo.gov/proposed-rules/ or by mail at Missouri Department of Agriculture, ATTN: Dr. Steve Strubberg, PO Box 630, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

FISCAL NOTE
PUBLIC COST

I. Department Title: 2 - Agriculture
Division Title: 30 – Animal Health
Chapter Title: 2—Health Requirements for Movement of Livestock, Poultry, Miscellaneous and Exotic Animals

Rule Number and Name:	**2 CSR 30-2.040 Animal Health Requirements for Exhibition**
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
MO Dept of AG printing cost	**1600**

III. WORKSHEET

Cost for printing extra Health Certificates	# of extra certificates	Total added cost to exhibitors
.20	8000 yearly	$1600

IV. ASSUMPTIONS

Calculations were made based on the number of health certificate exams billed during FY22. The number of extra certificates needed were multiplied by the proposed cost.

FISCAL NOTE
PRIVATE COST

I. **Department Title:** 2 - Agriculture
Division Title: 30 – Animal Health
Chapter Title: 2 – Health Requirements for Movement of Livestock, Poultry, and Exotic Animals

Rule Number and Name:	2 CSR 30-2.040 Animal Health Requirements for Exhibition
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Exhibitors showing within Missouri	**$160,000**

III. WORKSHEET

Cost per animal	Total # of exhibitors	Total added cost to exhibitors
$20	8000 yearly	$160,000

IV. ASSUMPTIONS

Calculations were made based on the number of health certificate exams billed during FY22. The number of tests billed were multiplied by the proposed cost.

TITLE 2 – DEPARTMENT OF AGRICULTURE
Division 90 – Weights, Measures and Consumer Protection
Chapter 20 – Method of Sale for Products

PROPOSED AMENDMENT

2 CSR 90-20.040 *NIST Handbook 130*, "Uniform Regulation for the Method of Sale of Commodities". The director is amending section (1) to specify the current edition of *NIST Handbook 130*.

*PURPOSE: This amendment updates reference to the most recent edition of **NIST Handbook 130**.*

(1) The rule for the Division of Weights, Measures and Consumer Protection for method of sale of commodities incorporates by reference the section of the *NIST Handbook 130*, *[2020]* **2023** edition, entitled "Uniform Regulation for the Method of Sale of Commodities," except for section 2.20 related to gasoline-oxygenate blends. *NIST Handbook 130*, *[2020]* **2023** ***[E]e***dition, is published by the *[Superintendent of Documents,]* U.S. Government Publishing Office, October 2005. A copy of this material can be obtained free of charge online at NIST.gov or a hard copy may be purchased from the National Conference of Weights and Measures at NCWM.net. This regulation does not include any later amendments or additions to *NIST Handbook 130*.

*AUTHORITY: section 413.065, RSMo 2016. Original rule filed May 9, 1984, effective Aug. 11, 1984. For intervening history, please consult the **Code of State Regulations**. Amended: Filed May 11, 2023.*

PUBLIC COST: The proposed amendment will not cost public entities more than five hundred dollars ($500) in the aggregate.

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Mr. Jimmy Williams, Division Director, Weights, Measures and Consumer Protection Division, PO Box 630, Jefferson City, MO 65102 or online at Agriculture.MO.Gov/proposed-rules/. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

TITLE 2 – DEPARTMENT OF AGRICULTURE
Division 90 – Weights, Measures and Consumer Protection
Chapter 22 – *Uniform* Packaging and Labeling

PROPOSED AMENDMENT

2 CSR 90-22.140 *NIST Handbook 130*, "Uniform Packaging and Labeling Regulation". The director is amending section (1) to specify the current edition of *NIST Handbook 130*.

*PURPOSE: This amendment updates reference to the most recent edition of **NIST Handbook 130**.*

(1) The rule for the Division of Weights, Measures and Consumer Protection for packaging and labeling shall incorporate by reference the section of the *[2020]* **2023** edition of *NIST Handbook 130[,]* entitled "Uniform Packaging and Labeling Regulation." *NIST Handbook 130, [2020]* **2023** ***[E]e***dition, is published by the *[Superintendent of Documents,]* U.S. Government Publishing Office. A copy of this material can be obtained free of charge online at NIST.gov or a hard copy may be purchased from the National Conference of Weights and Measures at NCWM.net. This regulation does not include any later amendments or additions to *NIST Handbook 130*.

*AUTHORITY: section 413.065, RSMo 2016. Original rule filed May 9, 1984, effective Sept. 14, 1984. For intervening history, please consult the **Code of State Regulations**. Amended: Filed May 11, 2023.*

PUBLIC COST: The proposed amendment will not cost public entities more than five hundred dollars ($500) in the aggregate.

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Mr. Jimmy Williams, Division Director, Weights, Measures and Consumer Protection Division, PO Box 630, Jefferson City, MO 65102 or online at Agriculture.MO.Gov/proposed-rules/. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

TITLE 2 – DEPARTMENT OF AGRICULTURE
Division 90 – Weights, Measures and Consumer Protection
Chapter 23 – Inspection of Packaged Commodities

PROPOSED AMENDMENT

2 CSR 90-23.010 *NIST Handbook 133*, Technical Procedures and Methods for Measuring and Inspecting Packages or Amounts of Commodities. The director is amending section (1) to specify the current edition of *NIST Handbook 133*.

*PURPOSE: This amendment updates references to the most current edition of the **NIST Handbook 133**.*

(1) The technical procedures and methods used by the Division of Weights, Measures and Consumer Protection for measuring and inspecting packages or amounts of commodities kept, offered, exposed for sale, sold, or in the process of delivery*[,]* shall be those procedures and methods described and specified in the *National Institute of Standards and Technology (NIST) Handbook 133*, *Checking the Net Contents of Packaged Goods, [2020]* **2023** ***[E]e***dition, as incorporated by reference in this rule. NIST Handbook 133, *[2020]* **2023** ***[E]e***dition, is published by the *[Superintendent of Documents,]* U.S. Government Publishing Office. A copy of this material can be obtained free of charge online at NIST.gov or a hard copy may be purchased from the National Conference of Weights and Measures at NCWM.net. This regulation does not include any later amendments or additions to *NIST Handbook 133*.

AUTHORITY: section 413.065, RSMo 2016. Original rule filed Sept. 14, 1981, effective Dec. 15, 1981. For intervening history, please

*consult the **Code of State Regulations**. Amended: Filed May 11, 2023.*

PUBLIC COST: The proposed amendment will not cost public entities more than five hundred dollars ($500) in the aggregate.

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Mr. Jimmy Williams, Division Director, Weights, Measures and Consumer Protection Division, PO Box 630, Jefferson City, MO 65102 or online at Agriculture.MO.Gov/proposed-rules/. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

TITLE 2 – DEPARTMENT OF AGRICULTURE
Division 90 – Weights, Measures and Consumer Protection
Chapter 25 – Price Verification

PROPOSED AMENDMENT

2 CSR 90-25.010 Price Verification Procedures. The director is amending section (1) to specify the current edition of *NIST Handbook 130*.

*PURPOSE: This amendment updates reference to the most recent edition of **NIST Handbook 130**.*

(1) The Division of Weights, Measures and Consumer Protection shall follow the examination procedure for price verification incorporated by reference in the section of *NIST Handbook 130*, *[2020]* **2023** edition, entitled "Examination Procedure for Price Verification." *NIST Handbook 130*, *[2020]* **2023** *[E]***e**dition, is published by the *[Superintendent of Documents,]* U.S. Government Publishing Office. A copy of this material can be obtained free of charge online at NIST.gov or a hard copy may be purchased from the National Conference on Weights and Measures at NCWM.net. This regulation does not include any later amendments or additions to *NIST Handbook 130*.

*AUTHORITY: section 413.065, RSMo 2016. Original rule filed Aug. 13, 1996, effective Feb. 28, 1997. For intervening history, please consult the **Code of State Regulations**. Amended: Filed May 11, 2023.*

PUBLIC COST: The proposed amendment will not cost the public entities more than five hundred dollars ($500) in the aggregate.

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Mr. Jimmy Williams, Division Director, Weights, Measures and Consumer Protection Division, PO Box 630, Jefferson City, MO 65102 or online at Agriculture.MO.Gov/proposed-rules/. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

TITLE 6 – DEPARTMENT OF HIGHER EDUCATION AND WORKFORCE DEVELOPMENT
Division 10 – Commissioner of Higher Education
Chapter 2 – Student Financial Assistance Programs

PROPOSED RULE

6 CSR 10-2.080 Higher Education Academic Scholarship Program

PURPOSE: The Higher Education Academic Scholarship Program permits the Coordinating Board for Higher Education to provide academic scholarships for eligible Missouri residents to attend an approved Missouri college or university of their choice pursuant to the provisions included in section 173.250, RSMo. This rule sets forth qualifications required of student applicants for the scholarships, criteria to be used in selecting scholarship recipients, and qualifications which approved colleges or universities must meet.

(1) Definitions.

(A) Academic year or the period of the scholarship is the period from July 1 of any year through June 30 of the following year.

(B) ACT means the American College Testing Program.

(C) Applicant is anyone who applies to the Missouri Department of Higher Education (MDHE) for a scholarship under the academic scholarship program and who qualifies under section 173.1104, RSMo, excluding undergraduate status.

(D) Approved institution means any institution located in the state of Missouri that meets the requirements set forth in subdivision 173.1102.1(2) or (3), RSMo, and that has been approved under 6 CSR 10-2.140.

(E) Approved student deferment period or deferment is a period of time up to the maximum time allowed in section 173.250, RSMo, during which an eligible initial or renewal recipient may cease enrollment without losing scholarship eligibility. The deferment shall begin on July 1 of the academic year for which the student's deferment was approved or July 1 following the most recent academic year that the student received scholarship assistance.

(F) Certificate of high school equivalence shall be a certificate that is awarded to an applicant who has successfully completed and passed the General Educational Development (GED) examination as established by the Commission on Educational Credit and Credentials of the American Council on Education (ACE).

(G) Completed secondary coursework or completion of secondary coursework shall be graduation from high school or the virtual public school established in section 161.670, RSMo, receipt of a GED diploma, completion of a program of study through homeschooling, or any other program of academic instruction that satisfies the compulsory attendance requirement under section 167.031, RSMo.

(H) Consortium agreement means a written agreement between two (2) or more approved institutions that allows students to take courses at a school other than the home school and have those courses count toward the degree or certificate at the home school that complies with the United States Department of Education requirements for federal student financial assistance.

(I) Continually enrolled shall be enrollment as a full-time student who receives scholarship assistance at an approved institution for at least one (1) semester, trimester, or quarter, not including summer terms, in the academic year for which

the scholarship award was offered.

(J) CBHE means the Coordinating Board for Higher Education created by section 173.005, RSMo.

(K) Expenses shall be any education-related expenses including but not limited to tuition, fees, and room and board.

(L) Full-time student shall be defined by the approved institution as a postsecondary student who is enrolled in and is carrying a sufficient number of credit hours or its equivalent (minimum twelve (12) credit hours) at the approved private or public Missouri institution to secure the degree or certificate toward which the student is working in accordance with paragraph (2)(A)5. of this rule. Provided, however, that an otherwise eligible student having a disability as defined by Title II of the Americans with Disabilities Act (42 U.S.C. 12101-12213) who, because of the student's disability, is unable to satisfy the statutory minimum requirements for full-time status under Title IV student aid programs shall be considered by the approved institution to be a full-time student and shall be considered to be making satisfactory academic progress, as defined in subsection (1)(W) of this rule, while carrying a minimum of six (6) credit hours or their equivalent at the approved institution.

(M) Higher Education Academic Scholarship Program or academic scholarship program shall mean the academic scholarship program provisions created by section 173.250, RSMo.

(N) Initial recipient shall be any applicant who meets the eligibility requirements and is awarded an academic scholarship under the academic scholarship program in the academic year immediately following completion of secondary coursework.

(O) Medical need shall be a verified illness, disability, pregnancy, or other medical condition that prevents an eligible applicant from enrolling as a renewal recipient or which requires a recipient to cease all attendance at an approved institution in the academic year for which the scholarship award was originally offered.

(P) MDHE shall be the Missouri Department of Higher Education created by section 173.005, RSMo.

(Q) Missouri test takers shall be all Missouri high school students taking the ACT examination or the SAT during the student's senior year in high school.

(R) Nonprofit organization shall be any organization which is organized under the laws of its home state as a not-for-profit corporation or organization, such as a charitable, scientific, or literary organization.

(S) Qualifying score shall be a composite score on the ACT examination or the SAT achieved in an eligible student's high school sophomore, junior, or senior year that is in the top five percent (5%) of Missouri test takers, as established at the beginning of an eligible student's final year of secondary coursework.

(T) Renewal recipient shall be any applicant who received an academic scholarship as an initial recipient under the academic scholarship program and meets the eligibility requirements under the provisions of this rule and requirements as defined by the approved institution and is awarded a renewable academic scholarship under the academic scholarship program.

(U) Resident of Missouri is any person who meets the requirements for resident status for Missouri set forth by the CBHE in 6 CSR 10-3.010.

(V) SAT means the Scholastic Aptitude Test of the College Board.

(W) Satisfactory academic progress shall be a cumulative grade point average (CGPA) of at least two and one-half (2.5) on a four-point (4.0) scale, or the equivalent on another scale, and, with the exception of grade point average, as otherwise determined by the approved institution's policies as applied to other students at the approved institution receiving assistance under Title IV financial aid programs included in the Higher Education Act of 1965. The calculation of CGPA shall be based on the approved institution's policies as applied to other students in similar circumstances.

(X) Scholarship assistance or award shall be an amount of money paid by Missouri to a qualified applicant pursuant to the provisions of this rule.

(Y) Service-related expenses shall be any allowable expenses related to room, board, travel, and personal costs of the applicant necessary to satisfactorily provide and complete a service to a nonprofit organization, or a state or federal government agency.

(Z) Student exchange program shall be any recognized international or national secondary-level exchange program recognized by the student's high school that is available to qualified students to continue their educational studies.

(AA) Sufficient documentation shall be documents including but not limited to letters of participation, application materials, copies of orders or release papers, or a statement of medical need provided by the student exchange program, the nonprofit organization, a state or federal government agency, any branch of the armed forces, or a practicing medical physician that verifies a student's status to the satisfaction of the MDHE.

(2) Basic Eligibility Policy.

(A) To be eligible for initial or renewed scholarship assistance under the academic scholarship program, an applicant must meet the following conditions:

1. Be a citizen or permanent resident of the United States;

2. Be a resident of Missouri;

3. Be enrolled or accepted for enrollment as a full-time postsecondary student at an approved institution for the period of the scholarship and be in compliance with section 173.1104, RSMo, excluding the requirement of undergraduate status;

4. Not be enrolled or intend to use the award to enroll in a course of study leading to a degree in theology or divinity; and

5. Be allotted scholarship assistance for one (1) academic year, but an applicant shall be eligible for renewed assistance until the applicant has obtained a baccalaureate degree, provided the scholarship assistance shall not exceed a total of ten (10) semesters or fifteen (15) quarters or their equivalents.

(B) To be eligible for initial scholarship assistance, an applicant must also –

1. Have completed secondary coursework and have achieved a qualifying score;

2. Be offered and receive a scholarship award as a first-time, full-time, first-year postsecondary student the academic year immediately following completion of secondary coursework; and

3. Complete and submit all requested eligibility information to the MDHE according to the provisions of this rule.

(C) To be eligible for renewed scholarship assistance, an applicant must also –

1. Be continually enrolled in an approved institution full-time, excluding periods of enrollment during summer terms, as a second-, third-, fourth- or fifth-year student, or other student meeting the eligibility requirements of this rule;

2. Have continually received an academic scholarship subject to the availability of state-appropriated funds; and

3. Maintain satisfactory academic progress in the applicant's course of study.

(D) To be approved for a deferment, initial and renewal recipients who cease all enrollment due to participation in a student exchange program, provision of a service to a nonprofit organization, a state or federal government agency, or service on active duty in any branch of the armed forces of the United States, or because of medical need must meet the eligibility requirements for scholarship assistance in accordance with the provisions of this rule, with the exception of continuous enrollment. Prior to the student's change in status, the student must –

1. Contact the CBHE in writing to request a student deferment of eligibility; and

2. Complete and submit the deferment of eligibility form that is provided by the MDHE, along with sufficient documentation indicating the renewal recipient ceased all attendance or the initial recipient was unable to enroll and receive scholarship assistance at an approved institution in the academic year for which the scholarship was originally offered.

(E) To satisfactorily complete the approved student deferment period, applicants and recipients must meet the following requirements in the academic year immediately following the student deferment period:

1. Notify the MDHE by submitting sufficient documentation verifying the approved student deferment period was satisfactorily completed within the maximum time frame allowed in section 173.250, RSMo;

2. Complete and submit all requested eligibility information to the MDHE according to the provisions of this rule;

3. Have met all other requirements established for eligibility to receive an initial or renewal scholarship;

4. Enroll as a full-time student at an approved institution within the time frames referenced in section 173.250, RSMo; and

5. Submit sufficient documentation verifying to the MDHE that the student was not compensated for other than service-related expenses for a service that was provided to a nonprofit organization.

(3) Responsibilities of Approved Institutions. Institutions participating in the Higher Education Academic Scholarship Program must meet the requirements set forth in 6 CSR 10-2.140, Institutional Eligibility for Student Participation.

(4) Application and Evaluation Policy.

(A) The MDHE shall prescribe the form of and the time and method of filing applications under the academic scholarship program.

(B) An application for scholarship assistance under the academic scholarship program shall be made in the form and method prescribed by the MDHE.

(C) The MDHE will determine if an applicant has achieved a qualifying score and is eligible for an award as an initial recipient by evaluating the official ACT or SAT test scores from national test dates, approved special test dates, or census test dates in comparison to the Missouri high school senior score report provided by ACT or the College Board. Verification of the initial recipient's test scores from national, special, or census test dates must be provided by ACT or the College Board, or by an official at the high school from which the initial recipient graduated or a financial aid officer at the approved institution in which the initial recipient is enrolled or plans to enroll based on documentation from ACT or the College Board. Failure to provide official test score verification will result in the application being incomplete.

(D) If an eligible applicant has been offered or has received a scholarship award under the provisions of this rule and if the applicant's qualifying composite test score has officially been cancelled and is determined to be invalid by ACT or the College Board then the applicant will be declared ineligible for further award by the MDHE for the scholarship program.

(E) All applicants and renewal students will be evaluated by the MDHE according to the eligibility criteria under the provisions of this rule, the information submitted by the approved institution, and on any other information received by and deemed reliable by the MDHE.

(F) The deadline for having completed eligibility information on file will be published annually by the MDHE for each academic year. Completed eligibility information must be on file with the MDHE on or before the published deadline to be considered on time and for the applicant to have priority consideration. Incomplete records received by the MDHE will not be processed.

(G) Eligibility information completed after the annual deadline published by the MDHE will be awarded provided program funds are available, based on a review by the MDHE.

(5) Award Policy.

(A) The maximum academic scholarship program award amount for each applicant per academic year shall be the amount(s) referenced in section 173.250, RSMo.

(B) Awards at approved institutions utilizing trimester academic programs shall be evenly distributed over the three (3) terms.

(C) Financial need shall not be used by the MDHE in determining eligibility for awards under the academic scholarship program for an applicant.

(D) If program funds are insufficient to award to all recipients in the top three percent (3%), the award amounts will be reduced equally for those recipients until all funds have been expended. All students in the top three percent (3%) of all Missouri test-takers shall receive the maximum academic scholarship program award amount referenced in section 173.250, RSMo, before any student in the top fourth and fifth percentiles receives any award.

(E) If program funds are insufficient to award to all recipients in the top fourth and fifth percentiles, the award amounts will be reduced equally for those recipients until all funds have been expended.

(F) A student who has been denied an academic scholarship award for lack of satisfactory academic progress may not receive another academic scholarship award until the enrollment period after the applicable standard has once again been met.

(G) The award amount for any given academic year will be disbursed to the approved institution equally according to the number of semesters at the approved institution and awarded for each semester of enrollment.

(H) Awards will not be made for periods of enrollment during summer terms.

(I) Awards will be issued only after certification of full-time attendance of the student by the institution. For a student enrolled as part of a consortium agreement, the student must be considered to be enrolled full-time at the home institution to be certified.

(J) An applicant may change the approved institution choice by the established deadline and may transfer between approved institutions during the academic year. Failure to notify the MDHE of such action may result in loss of the award.

(K) Award notifications will be sent to initial applicants and renewal students by the MDHE once the awards have been determined. Notification of initial and renewal awards also will be sent to the student financial aid office at the approved institution where the applicant plans to enroll or has enrolled.

(L) The applicant's award will be sent to the approved institution to be delivered to the student's account. The institution shall retain the portion of the award that the student owes for expenses and promptly give the applicant any remaining funds.

(6) Information Sharing Policy. All information on an individual's academic scholarship program application will be shared with the financial aid office of the institution to which the individual has applied or is attending to permit verification of data submitted. Information may be shared with federal financial aid offices if necessary to verify data furnished by the state or federal governments as provided for in the Privacy Act of 1974, 5 U.S.C. sections 552, 552a.

*AUTHORITY: section 173.250, RSMo 2016. Original rule filed Nov. 14, 1986, effective Feb. 28, 1987. For intervening history, please consult the **Code of State Regulations**. Rescinded: Filed Sept. 23, 2022, effective March 30, 2023. Readopted: Filed: May 12, 2023.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Higher Education and Workforce Development at 301 W. High St. Suite 860, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

TITLE 6 – DEPARTMENT OF HIGHER EDUCATION AND WORKFORCE DEVELOPMENT
Division 250 – University of Missouri
Chapter 7 – Financial Administration of the State Cancer Center

PROPOSED RESCISSION

6 CSR 250-7.010 Definitions Relating to the Financial Administration of the State Cancer Center. This rule established the definitions used to interpret this chapter.

PURPOSE: This rule is outdated and no longer serves the institution.

AUTHORITY: sections 192.005.2. and 200.030, RSMo 1986. This rule was previously filed as 19 CSR 80-1.010. Original rule filed May 15, 1990, effective Sept. 28, 1990. Rescinded: Filed May 12, 2023.

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Higher Education and Workforce Development, 301 W. High Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

TITLE 6 – DEPARTMENT OF HIGHER EDUCATION AND WORKFORCE DEVELOPMENT
Division 250 – University of Missouri
Chapter 7 – Financial Administration of the State Cancer Center

PROPOSED RESCISSION

6 CSR 250-7.020 Utilization of Payments by Third-Party Sources and Responsible Parties for Care Rendered by the State Cancer Center. This rule established procedures for the State Cancer Center to utilize payments by third-party sources and responsible parties to offset the cost of care.

PURPOSE: This rule is outdated and no longer serves the institution.

AUTHORITY: sections 192.005.2. and 200.030, RSMo 1986. This rule was previously filed as 19 CSR 80-1.020. Original rule filed May 15, 1990, effective Sept. 28, 1990. Rescinded: Filed May 12, 2023.

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Higher Education and Workforce Development, 301 W. High Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

TITLE 6 – DEPARTMENT OF HIGHER EDUCATION AND WORKFORCE DEVELOPMENT
Division 250 – University of Missouri
Chapter 7 – Financial Administration of the State Cancer Center

PROPOSED RESCISSION

6 CSR 250-7.030 Standard Means Test for Missouri Residents Who Are Patients of the State Cancer Center. This rule established a standard for fair and consistent determination of the ability of patients who are Missouri residents to pay for services provided at the State Cancer Center.

PURPOSE: This rule is outdated and no longer serves the

institution.

AUTHORITY: sections 192.005.2., 200.030, 200.101, RSMo 1986. This rule was previously filed as 19 CSR 80-1.030. Original rule filed May 15, 1990, effective Sept. 28, 1990. Rescinded: Filed May 12, 2023.

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Higher Education and Workforce Development, 301 W. High Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

TITLE 6 – DEPARTMENT OF HIGHER EDUCATION AND WORKFORCE DEVELOPMENT

Division 250 – University of Missouri

Chapter 7 – Financial Administration of the State Cancer Center

PROPOSED RESCISSION

6 CSR 250-7.040 Patients for Whom the Standard Means Test Is Unavailable. This rule required nonresidents of Missouri to demonstrate the ability to pay for services in full prior to the State Cancer Center providing diagnostic or treatment services or admission privilege.

PURPOSE: This rule is outdated and no longer serves the institution.

AUTHORITY: sections 192.005.2., 200.030, and 200.101, RSMo 1986. Original rule filed May 15, 1990, effective Sept. 28, 1990. Rescinded: Filed May 12, 2023.

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Higher Education and Workforce Development, 301 W. High Street, Jefferson City, MO 65101. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

TITLE 12 – DEPARTMENT OF REVENUE

Division 10 – Director of Revenue

Chapter 2 – Income Tax

PROPOSED AMENDMENT

12 CSR 10-2.105 Report of Changes in Federal Income Tax Return. The director is updating the Publisher's Note, amending the rule purpose and sections (1)–(4) and (6), and adding new section (8).

PURPOSE: This amendment updates the rule purpose, removes and replaces the outdated Publisher's Note, makes minor grammatical corrections in sections (1), (2), and (6), updates form names in (3)(B) and (4), and creates new section (8).

*PURPOSE: Under the State Income Tax Law (section 143.011, RSMo), this rule establishes the proper procedures for reporting any change**[(s)]** in the taxpayer's federal taxable income or federal income tax liability for the purpose of the determination of the correct state income tax liability.*

PUBLISHER'S NOTE: The secretary of state has determined that publication of the entire text of the material that is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here

(1) In General. If the taxpayer's federal taxable income or federal tax reported on *[his/her]* **their** federal income tax return is changed, the taxpayer shall file an amended return with the Department of Revenue reflecting the final determination.

(2) Time of Notice. The taxpayer must report *[the]* **any** change*[(s)]* within ninety (90) days after the final determination of the change*[(s)]* and pay any tax due. Interest is due pursuant to section 143.731, RSMo. Failure to pay the tax due within ninety (90) days will result in additions to tax of five percent (5%).

(3) Final Determination. For the purposes of this rule, the following shall be deemed a final determination:

(B) The signing of a Federal Form 870 **Waiver of Restrictions on Assessment and Collection of Deficiency in Tax and Acceptance of Overassessment** or other IRS form consenting to the deficiencies, accepting any over-assessment shown on the form, or both. However, where the signature of an authorized representative of the IRS is also required, the final determination shall occur when the taxpayer receives notice of the signing by the IRS;

(4) Requirements for Reporting Federal Change. An amended return shall be filed as specified in section (5) reflecting and explaining all changes affecting the original return filed. In addition, a copy of the Summary of the Federal Revenue Agent's Report (commonly referred to as an RAR) **using Form 886-A or Form 4549**, a copy of a closing agreement entered into with the IRS under Section 7121 of the IRC or a copy of a final court decision, as appropriate, shall be submitted in support of the Report of Change.

(6) Assessment. If a taxpayer fails to comply with the requirements of reporting a federal change as outlined in this rule, a notice of deficiency may be issued at any time within one (1) year after the director of revenue becomes aware of *[the]* **any** change*[(s)]*. The amount of any proposed assessment, set forth in the notice of deficiency, shall be limited to the changes outlined in the federal determination and how they affect Missouri taxable income. However, the limitations contained in this section shall not be construed to reduce the statute of limitations that would otherwise be applicable.

(8) The Federal Forms 886-A, Form 4549, and Form 870 Waiver of Restrictions on Assessment and Collection of Deficiency in Tax and Acceptance of Overassessment dated May 2, 2023, are incorporated by reference and made a part of this rule as published by the Internal Revenue Service, and available at www.irs.gov or Harry S Truman State Office Building, 301 West High Street, Jefferson City, MO 65101. This rule does not incorporate any subsequent amendments or additions.

*AUTHORITY: section 143.961, RSMo [1994] **2016**. Original rule filed July 31, 1984, effective Jan. 12, 1985. Amended: Filed Sept. 1, 1993, effective Jan. 31, 1994. Amended: Filed Oct. 24, 1997, effective April 30, 1998. Amended: Filed May 15, 2023.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Revenue, Legislative Office, 301 W. High Street, Room 218, Jefferson City, MO 65109-0475. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

TITLE 12 – DEPARTMENT OF REVENUE
Division 10 – Director of Revenue
Chapter 2 – Income Tax

PROPOSED AMENDMENT

12 CSR 10-2.140 Partnership Filing Requirements. The director is amending sections (2) and (3), and adding new sections (6) and (7).

PURPOSE: This amendment updates the Publisher's Note, makes corrections to form names in sections (2) and (3) and adds sections (6) and (7) with reference information.

(2) The return shall be made using Missouri Department of Revenue Form **MO-10**65 **Partnership Return of Income**. Each return shall have attached to it a copy of federal Form 1065 **U.S. Return of Partnership Income** and all its schedules, including K-1.

(3) An entity electing to be completely excluded from the partnership provisions of the IRC which has nonresident partners shall be required to file Form **MO-10**65 **Partnership Return of Income** containing only its name, address**,** and required signature and attach a copy of federal Form 1065 **U.S. Return of Partnership Income** and the statement required with that return for the first taxable year to which the exclusion applied.

(6) The form MO-1065 Partnership Return of Income, dated May 5, 2023, is incorporated by reference and made a part of this rule as published by Missouri Department of Revenue, and available at www.dor.mo.gov or Harry S Truman State Office Building, 301 West High Street, Jefferson City, MO 65101. This rule does not incorporate any subsequent amendments or additions.

(7) The federal Form 1065 U.S. Return of Partnership Income, dated May 5, 2023, is incorporated by reference and made a part of this rule as published by Missouri Department of Revenue, and available at www.dor.mo.gov or Harry S Truman State Office Building, 301 West High Street, Jefferson City, MO 65101. This rule does not incorporate any subsequent amendments or additions.

*AUTHORITY: sections 143.091, 143.401, and 143.581, RSMo [1994] **2016**. Original rule filed July 11, 1985, effective Dec. 26, 1985. Amended: Filed May 15, 2023.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Revenue, Legislative Office, 301 W. High Street, Room 218, Jefferson City, MO 65109-0475. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

TITLE 12 – DEPARTMENT OF REVENUE
Division 10 – Director of Revenue
Chapter 6 – Motor Vehicle Fuel Tax

PROPOSED AMENDMENT

12 CSR 10-6.030 Motor Fuel Bond Trust Fund. The director is amending sections (3) and (4).

PURPOSE: This amendment updates the required contributions made to the Motor Fuel Bond Trust Fund due to statutory changes in the motor fuel tax rate.

(3) Basic Application of Tax.

(A) *[Effective July 1, 2006, t]***T**he contribution rate to the Motor Fuel Bond Trust Fund **for motor fuel** is *[$.0024 per gallon for motor fuel and $.0013 per gallon for aviation gasoline.]* **as follows:**

1. $0.0024 July 1, 2006 through September 30, 2021;
2. $0.0028 October 1, 2021 through June 30, 2022;
3. $0.0031 July 1, 2022 through June 30, 2023;
4. $0.0035 July 1, 2023 through June 30, 2024;
5. $0.0038 July 1, 2024 through June 30, 2025; and,
6. $0.0042 July 1, 2025 forward.

(B) The contribution rate to the Motor Fuel Bond Trust

Fund for aviation gasoline is $0.0013 per gallon for aviation gasoline effective July 21, 2006.

(C) The contribution rate to the Motor Fuel Bond Trust Fund for compressed natural gas (CNG) and liquefied natural gas (LNG) is –

1. $0.0016 January 1, 2016 through December 31, 2024; and

2. $0.0024 January 1, 2025 forward.

(D) The contribution rate to the Motor Fuel Bond Trust Fund for propane is –

1. $0.0016 August 28, 2017 through December 31, 2024; and

2. $0.0024 January 1, 2025 forward.

*[(B)]***(E)** The rate per gallon applies to all gallons purchased from Missouri licensed suppliers and all gallons imported during the month subject to taxes and/or fees.

*[(C)]***(F)** Qualifying distributors that choose to participate in the fund must make contributions until the fund reaches a maximum of one (1) million dollars, except as noted in subsection (3)*[(E)]***(H)** below.

*[(D)]***(G)** When the fund reaches the maximum, participating distributors are not required to make additional contributions to the fund until the fund is reduced to five hundred thousand dollars ($500,000), at which time the contributions will be reinstated.

*[(E)]***(H)** A qualifying distributor must pay into the fund for a minimum of one (1) year after it elects to participate even if the fund has reached the one (1)*[-]*million dollar cap.

(4) Examples.

(A) A qualifying distributor imports 500,000 gallons of gasoline into Missouri on a monthly basis **in 2020**. Instead of purchasing a surety bond for three times the monthly liability, the distributor chooses to contribute to the Motor Fuel Bond Trust Fund. The monthly contribution required is $1,200 (500,000 × $**0**.0024).

(B) A qualifying distributor purchases 100,000 gallons of aviation gasoline for sale in Missouri on a monthly basis **in 2020**. Instead of providing a letter of credit for three times the monthly liability, the distributor chose to contribute to the Motor Fuel Bond Trust Fund. The monthly contribution required is $130 (100,000 × $**0**.0013).

*AUTHORITY: sections 142.896.3 and 142.953, RSMo **[2000] 2016**. Original rule filed Oct. 31, 2005, effective May 30, 2006. Amended: Filed May 2, 2023.*

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

PRIVATE COST: This proposed amendment will cost private entities up to seven thousand one hundred eighty-two dollars ($7,182) annually.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Revenue, Legislative Office, 301 W. High Street, Room 218, Jefferson City, MO 65109-0475. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

FISCAL NOTE
PRIVATE COST

I. Department Title: DEPARTMENT OF REVENUE
Division Title: Director of Revenue
Chapter Title: Motor Vehicle Fuel Tax

Rule Number and Title:	12 CSR 10-6.030 Motor Fuel Bond Trust Fund
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
9	Motor fuel distributors	Up to $7,182 in aggregate

III. WORKSHEET

IV. ASSUMPTIONS

Distributors of motor fuel are required to post a surety bond, cash bond, certificate of deposit, or letter of credit. Section 142.896, allows a fee to be paid, in lieu of posting the bond that is deposited into the Motor Fuel Bond Trust Fund. The rate of this fee is based on the motor fuel tax rate. Since SB 262 adopted in 2021, changed the motor fuel rate, the alternative fee in lieu of bond is increasing.

The Department currently has 382 distributors who post the bond while 9 distributors pay the fee. In FY 2021, the 9 distributors paid a total of $9,577 in fees based on a rate of $0.0024 per gallon. Assuming that only those 9 continue to make the payment we would estimate the following:

Fiscal Year	Rate per gallon	Total Collected	Difference over current
2021 current	$0.0024	$9,577	$0
2022	$0.0028	$11,173	$1,596
2023	$0.0031	$12,370	$2,793
2024	$0.0035	$13,966	$4,389
2025	$0.0038	$15,163	$5,586
2026+	$0.0042	$16,759	$7,182

The amount paid per each distributor is based on their sales each year; therefore, we are not able to determine the amount per distributor.

TITLE 12 – DEPARTMENT OF REVENUE
Division 10 – Director of Revenue
Chapter 23 – Motor Vehicle

PROPOSED AMENDMENT

12 CSR 10-23.160 Good Moral Character of Motor Vehicle Dealers, Manufacturers, Boat Dealers, Salvage Dealers, and Title Service Agents. The director is amending section (2) and updating the authority.

PURPOSE: This amendment corrects outdated authority references.

(2) Any dealer or applicant who receives notice of denial or revocation and desires to contest the *prima facie* of the fact(s) recited in subsection (1)(A) or (B) may request a hearing for the purpose of showing substantial rehabilitation or improvement in character sufficient to rebut the presumption created by the cited subsections. Request for a hearing should be submitted to the Director, Motor Vehicle and Driver's Licensing Division, P*[.]*O*[.]* Box 629, Jefferson City, MO 65105.

*AUTHORITY: sections 301.114[,] **and** 301.221 [and 301.251], RSMo [1986] **2016, and sections 301.553 and 301.559, RSMo Supp. 2022**. Original rule filed Oct. 15, 1984, effective Feb. 11, 1985. Amended: Filed June 4, 1986, effective Aug. 25, 1986. Amended: Filed May 15, 2023.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Revenue, Legislative Office, 301 W. High Street, Room 218, Jefferson City, MO 65109-0475. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

TITLE 12 – DEPARTMENT OF REVENUE
Division 10 – Director of Revenue
Chapter 112 – Sales/Use Tax – Contractors

PROPOSED RULE

12 CSR 10-112.020 Solar Photovoltaic Energy Systems Sales Tax Exemption

PURPOSE: This rule interprets sections 144.010, 144.020, and 144.030, RSMo, as they relate to taxation of sales and purchases of solar photovoltaic energy systems.

(1) In general, the purchase of components, materials, and supplies by a company used directly to construct or make improvements to a solar photovoltaic energy system are exempt from sales or use tax provided the system is either sold or leased to an end user or is used to produce, collect, and transmit electricity for resale or retail sale.

(2) Definition of Terms.

(A) Company – Any commercial business, including contractors, who construct, maintain, or install solar photovoltaic energy systems.

(B) Solar photovoltaic energy systems – A power system designed to create and maintain usable solar power by means of photovoltaics, a method of converting solar energy into direct current electricity using semiconducting materials that create voltage or electric current in a material upon exposure to light. It consists of an arrangement of several components, including but not limited to solar panels to absorb and convert sunlight into electricity, a solar inverter to change the electric current from DC to AC, as well as mounting, cabling, metering systems, and other electrical accessories to set up a working system.

(C) Real property – Land and items permanently affixed to land, such as buildings.

(3) Basic Application of Tax.

(A) Any company that purchases components, materials, or supplies used directly to construct or make improvements to a solar photovoltaic energy system are exempt from sales and use tax. In order to qualify, the system must be either sold to an end user or used to produce, collect, and transmit electricity for resale or retail sale.

(4) Examples.

(A) A company purchases all of the components necessary to construct a solar photovoltaic energy system which it installs on a residential house for the homeowner. The company can purchase the components exempt from sales and use tax.

(B) A company purchases all of the components necessary to construct a solar photovoltaic energy system, which they install for a utility company, which uses the system to produce, collect, and transmit electricity for resale or retail sale. The company can purchase the components exempt from sales and use tax.

(C) A homeowner purchases all of the components necessary to construct a solar photovoltaic energy system and installs it on his home. The homeowner cannot purchase the components exempt from sales and use tax as he is not a company.

AUTHORITY: section 144.270, RSMo 2016. Original rule filed May 2, 2023.

PUBLIC COST: This proposed rule will result in a loss of revenue to the state and local political subdivisions between $15,269,108 to $20,418,908 annually. This revenue decrease is a result of companies not having to pay sales tax on these types of purchases.

PRIVATE COST: This proposed rule will save private entities between $15,269,108 to $20,418,908 annually.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Revenue, Legislative Office, 301 W. High Street, Room 218, Jefferson City, MO 65109-0475. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

FISCAL NOTE
PUBLIC COST

I. Department Title: DEPARTMENT OF REVENUE
Division Title: Director of Revenue
Chapter Title: Sales/Use Tax - Contractors

Rule Number and Name:	12 CSR 10-112.020 Solar Photovoltaic Energy Systems Sales Tax Exemption
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
State of Missouri –General Revenue	**($5,549,040-$7,420,560) annually**
Dept. of Elementary & Secondary Education – School District Trust Fund	**($1,849,680-$2,473,520) annually**
Dept. of Conservation – Conservation Commission Fund	**($231,210-$309,190) annually**
Dept. of Natural Resources – Park, Soil & Water Funds	**($184,968-$247,352) annually**
Local Political Subdivisions with a sales tax funds	**Aggregate to all local political subdivisions with sales tax funds ($7,454,210 to $ 9,968,286) annually**

III. WORKSHEET

IV. ASSUMPTIONS

SB 745 and SB 820 signed into law in the 20222 legislative session added a sales tax exemption to statutes in Section 144.030.2(46). The sales tax exemption is for solar photovoltaic energy systems and the purchases and materials that go with it. The exemption is only available to certain customers. This proposed rule helps clarify what materials and who can qualify for the exemption.

The Department of Revenue (DOR) had to update our computer systems, our website and our forms for this exemption. This was done using existing year end resources. No other political subdivision would have costs for implementation of this exemption.

The State sales tax is 4.225% and is distributed as shown below. The local sales tax rate used for fiscal notes is a weighted average of 4.03%.

General Revenue Fund is 3%
School District Trust Fund is 1% (Section 144.701)
Conservation Commission Fund is .125% (Article IV, Section 43(a))

Parks, Soil & Water Funds	.1% (Article IV, Section 47(a))
Local	4.03%

A sales tax exemption would result in a loss of revenue to each of the state sales tax funds as well as to any local political subdivision with a sales tax. DOR records indicate that all 114 counties plus the City of St. Louis, 682 cities and 779 special taxing districts also have a sales tax. Each of these districts could potentially have a loss of sales tax if exempt materials were purchased in their political subdivision.

DOR calculated the impact to the state and local political subdivisions using data published by the Solar Energy Industries Association (SEIA). Missouri has 361.6MW of current solar capacity and they project another 937MW coming online in the next five years. Based on data published by the U.S. Energy Information Administration (EIA), current utility scale solar energy generation in Missouri is 120MW. Based on this information, the Department estimates that 33.2% (120MW / 361.6MW) of all solar energy generation in Missouri comes from a utility scale solar generation system.

DOR assumed that the projected 5-year capacity increase will be equal each year, for a total yearly increase in solar generation capacity of 187.4MW and that the 33.2% utility project proportion will remain constant over the next five years. Under these assumptions, each year's utility scale projects will add 62.2MW and residential systems will add 125.2MW in solar production capacity.

Based on additional data published by SEIA, the average cost for a utility scale solar project was $0.82 to $1.36 per watt, with a one MW solar farm costing between $820,000 and $1,360,000. Therefore, this provision could exempt $51,004,000 (62.2MW average yearly capacity increase x $820,000 per 1MW cost) to $84,592,000 (62.2MW average yearly capacity increase x $1,360,000 per 1MW cost) in taxable sales.

Based on data published by the Solar Review the average cost for a residential solar system is $2.33 to $2.84 per watt. However, that cost includes items (such as profit and marketing) that would not be exempt under this provision. Using additional data provided by Solar Review, it was determined that approximately 45.9% of the per watt cost is directly related to equipment used in a residential solar system. Therefore, the qualifying per watt cost for a residential system is $1.07 to $1.30. Therefore, this provision could exempt $133,964,000 (125,200,000 watts average yearly capacity increase x $1.07 per watt cost) to $162,760,000 (125,200,000 watts average yearly capacity increase x $1.30 per watt cost) in taxable sales.

DOR noted that solar energy systems (including utility scale) can generally be completed in less than a year. Therefore, this would result in a full year's impact starting with FY23. Based on the data found, the Department estimates that this provision could reduce general revenue by $5,549,040 to $7,420,560 annually and this could reduce local sales tax revenues by $7,454,210 to $9,968,286 annually.

Table 1: Estimated Revenue Impact

State Funds	Low	High
General Revenue	($5,549,040)	($7,420,560)
Education (SDTF)	($1,849,680)	($2,473,520)
Conservation	($231,210)	($309,190)
DNR	($184,968)	($247,352)
Total State Revenue Loss	($7,814,898)	($10,450,622)
Local Funds		
Local Sales Tax	($7,454,210)	($9,968,286)

The Department however, is unable to determine the loss per specific local political subdivision. That would be dependent on the number of these residential solar systems being installed in their political subdivision. For this fiscal note we will show the aggregate estimated loss.

FISCAL NOTE
PRIVATE COST

I. Department Title: DEPARTMENT OF REVENUE
Division Title: Director of Revenue
Chapter Title: Sales/Use Tax - Contractors

Rule Number and Title:	12 CSR 10-112.020 Solar Photovoltaic Energy Systems Sales Tax Exemption
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
Unknown	**Customers of solar energy materials**	**Aggregate savings to all customers $15,269,108 to $20,418,908**

III. WORKSHEET

IV. ASSUMPTIONS

SB 745 and SB 820 signed into law in the 2022 legislative session added a sales tax exemption to statutes in Section 144.030.2(46). The sales tax exemption is for solar photovoltaic energy systems and the purchases and materials that go with it. The exemption is only available to certain customers. This proposed rule helps clarify what materials and who can qualify for the exemption.

The State sales tax is 4.225% and is distributed as shown below. The local sales tax rate used for fiscal notes is a weighted average of 4.03%.

General Revenue Fund is	3%
School District Trust Fund is	1% (Section 144.701)
Conservation Commission Fund is	.125% (Article IV, Section 43(a))
Parks, Soil & Water Funds	.1% (Article IV, Section 47(a))
Local	4.03%

A sales tax exemption would allow a customer to purchase an item without paying sales tax on that item. Therefore this would result in a savings to the customer. The Department of Revenue (DOR) was unable to determine the number of customers that would be eligible for this sales tax exemption but was able to estimate the savings based on the megawatts estimated to be produced in future years.

DOR calculated the impact to customers using data published by the Solar Energy Industries Association (SEIA). Missouri has 361.6MW of current solar capacity and they project another 937MW coming online in the next five years. Based on data published by the U.S. Energy Information Administration (EIA), current utility scale solar energy generation in Missouri is 120MW. Based on this information, the Department estimates that 33.2% (120MW / 361.6MW) of all solar energy generation in Missouri comes from a utility scale solar generation system.

DOR assumed that the projected 5-year capacity increase will be equal each year, for a total yearly increase in solar generation capacity of 187.4MW and that the 33.2% utility project proportion will remain constant over the next five years. Under these assumptions, each year's utility scale projects will add 62.2MW and residential systems will add 125.2MW in solar production capacity.

Based on additional data published by SEIA, the average cost for a utility scale solar project was $0.82 to $1.36 per watt, with a one MW solar farm costing between $820,000 and $1,360,000. Therefore, this provision could exempt $51,004,000 (62.2MW average yearly capacity increase x $820,000 per 1MW cost) to $84,592,000 (62.2MW average yearly capacity increase x $1,360,000 per 1MW cost) in taxable sales.

Based on data published by the Solar Review the average cost for a residential solar system is $2.33 to $2.84 per watt. However, that cost includes items (such as profit and marketing) that would not be exempt under this provision. Using additional data provided by Solar Review, it was determined that approximately 45.9% of the per watt cost is directly related to equipment used in a residential solar system. Therefore, the qualifying per watt cost for a residential system is $1.07 to $1.30. Therefore, this provision could exempt $133,964,000 (125,200,000 watts average yearly capacity increase x $1.07 per watt cost) to $162,760,000 (125,200,000 watts average yearly capacity increase x $1.30 per watt cost) in taxable sales.

DOR noted that solar energy systems (including utility scale) can generally be completed in less than a year. Therefore, this would result in a full year's impact starting with FY23. Based on the data found, the Department estimated that this provision could result in a savings to the customers of $15,269,108 to $20,418,908 annually. This savings to the customers is a loss to the state and local political subdivisions.

TITLE 20 – DEPARTMENT OF COMMERCE AND INSURANCE
Division 4240 – Public Service Commission
Chapter 13 – Service and Billing Practices for Residential Customers of Electric, Gas, Sewer, and Water Utilities

PROPOSED RULE

20 CSR 4240-13.075 Service Disconnection Reporting Requirements for Electric, Gas, Sewer, and Water Utilities

PURPOSE: This rule sets forth the requirement and standards for the submission of reports regarding and related to the cessation of services provided to customers by those investor-owned electric, gas, sewer, and water utilities that serve more than two thousand (2,000) residential customers and that are subject to the jurisdiction of the commission.

(1) For purposes of this rule –

(A) Residential meter(s) means a device or devices, owned by a utility, used for measuring the volume of services of a customer's electric, gas, sewer, or water consumption for residential service at a single point of delivery; and

(B) Average customer arrearage means the mean average of the total of all delinquent charges, late payment charges, and reconnection fees per residential meter. This shall be calculated as the sum of all delinquent charges, late payment charges, and reconnection fees associated with all residential meters as of 24:00 on the last calendar day of the calendar month, divided by the total number of residential meters with delinquent charges, late fees, or reconnection fees as of 24:00 on the last calendar day of the calendar month.

(2) Each utility, as that term is defined in 20 CSR 4240-13.015(1)(FF), serving more than two thousand (2,000) residential customers shall separately provide a report in the commission's electronic filing information system (EFIS) within twenty (20) days of the end of each calendar month. For those utilities that provide more than one (1) type of utility service, individual reports must be provided for each type of utility service. The utility shall provide an electronic copy of each report to the Office of the Public Counsel. All information provided shall be considered public information; however, no customer-specific information shall be reported or made public. All information shall be provided in a native electronic spreadsheet format with all links and formulas intact. Each utility shall report the following information as it relates to the immediately preceding calendar month:

(A) The total number of residential meters actively receiving service as of 00:00 on the first calendar day of the calendar month;

(B) The total number of residential meters actively receiving service as of 24:00 on the last calendar day of the calendar month;

(C) The total number of residential meters for which there was a termination of service, as that term is defined in 20 CSR 4240-13.015(1)(EE), during the calendar month;

(D) The total number of residential meters for which there was a discontinuance of service, as that term is used in 20 CSR 4240-13.050(1)(A), (B), (C), and (E), during the calendar month;

(E) The total number of residential meters that did not receive service as of 00:00 on the first calendar day of the calendar month and began receiving service before 24:00 on the last calendar day of the calendar month;

(F) The total number of residential meters for which at least one delinquent charge, as that term is defined in 20 CSR 4240-13.015(1)(I), exists as of 24:00 on the last calendar day of the calendar month;

(G) The average customer arrearage;

(H) The total dollar value of any monies received from the Low-Income Home Energy Assistance Program, Low-Income Household Water Assistance Program, or Energy Crisis Intervention Program to pay for a residential meter's delinquent charge, as that term is defined in 20 CSR 4240-13.015(1)(I), during the calendar month;

(I) The total dollar value of any monies received from any assistance program other than those referred to in subsection (2)(H) to pay for a residential meter's delinquent charge, as that term is defined in 20 CSR 4240-13.015(1)(I), during the calendar month;

(J) The total number of residential meters for which payment is made for utility services under a payment agreement, as that term is defined in 20 CSR 4240-13.015(1)(W); settlement agreement, as that term is defined in 20 CSR 4240-13.015(1)(CC); or payment agreement, as that term is used in 20 CSR 4240-13.055(10), as of 24:00 on the last calendar day of the calendar month;

(K) The mean average volume of services billed to each residential meter recorded during the calendar month in kilowatt-hours for electric services, centrum cubic feet for gas services, and thousand gallons of water for water services; and

(L) Any other information the commission orders the utility to provide.

(3) Any utility that provides a report pursuant to this rule, 20 CSR 4240-13.075, need not provide a separate report pursuant to 20 CSR 4240-13.055(15).

(4) If the commission finds that any deficiency exists in the report provided by a utility as required by section (2) of this rule, the commission may direct its staff to issue a notice to the utility identifying the deficiency. Any utility that receives a notice from the commission stating that deficiencies exist in its report shall respond to that notice within twenty (20) days after the date said notice is issued and shall provide all information necessary to cure the deficiency identified in said notice in its response. Both the notice and the response shall be included in EFIS by the staff of the commission.

(5) Each report provided by a utility as required under section (2) of this rule shall be made publicly available for access through a hyperlink found on the commission's official website's home page.

(6) The staff of the commission shall produce an Annual Residential Customer Disconnection Report within forty-five (45) days of the end of each calendar year that shall aggregate all of the reports provided by all of the utilities as required under section (2) of this rule during the course of the previous year. This Annual Residential Customer Disconnection Report shall be made publicly available for access through a hyperlink found on the commission's official website's home page. All information included in the Annual Residential Customer Disconnection Report shall be considered public information; however, no customer-specific information shall be reported or made public.

(7) The receipt by the commission or commission staff of reports prescribed by this rule shall not bind the commission or commission staff to the approval or acceptance of, or

agreement with, any matter contained in the reports for the purpose of fixing rates or in determining any other issue that may come before the commission.

AUTHORITY: sections 386.250 and 393.140, RSMo 2016. Original rule filed May 12, 2023.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Nancy Dippell, Secretary of the Commission, 200 Madison Street, PO Box 360, Jefferson City, MO 65102-0360. To be considered, comments must be received at the commission's offices on or before July 15, 2023, and should include a reference to Commission Case No. AX-2013-0175. Comments may also be submitted via the commission's electronic filing and information system at http://www.psc.mo.gov/efis.asp. A public hearing is scheduled for Thursday, July 20, 2023, at 9 a.m., in Room 310 of the Governor Office Building, 200 Madison St., Jefferson City, MO. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rule, and may be asked to respond to commission questions. Any persons with special needs, as addressed by the Americans with Disabilities Act, should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

This section will contain the final text of the rules proposed by agencies. The order of rulemaking is required to contain a citation to the legal authority upon which the order or rulemaking is based; reference to the date and page or pages where the notice of proposed rulemaking was published in the *Missouri Register*; an explanation of any change between the text of the rule as contained in the notice of proposed rulemaking and the text of the rule as finally adopted, together with the reason for any such change; and the full text of any section or subsection of the rule as adopted that has been changed from the text contained in the notice of proposed rulemaking. The effective date of the rule shall be not less than thirty (30) days after the date of publication of the revision to the *Code of State Regulations*.

The agency is also required to make a brief summary of the general nature and extent of comments submitted in support of or opposition to the proposed rule and a concise summary of the testimony presented at the hearing, if any, held in connection with the rulemaking, together with a concise summary of the agency's findings with respect to the merits of any such testimony or comments that are opposed in whole or in part to the proposed rule. The ninety-(90-) day period during which an agency shall file its order of rulemaking for publication in the *Missouri Register* begins either: 1) after the hearing on the proposed rulemaking is held; or 2) at the end of the time for submission of comments to the agency. During this period, the agency shall file with the secretary of state the order of rulemaking, either putting the proposed rule into effect, with or without further changes, or withdrawing the proposed rule.

TITLE 2 – DEPARTMENT OF AGRICULTURE
Division 30 – Animal Health
Chapter 10 – Food Safety and Meat Inspection

ORDER OF RULEMAKING

By the authority vested in the Animal Health Division under section 265.020, RSMo 2016, the division amends a rule as follows:

2 CSR 30-10.010 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on February 15, 2023 (48 MoReg 306-307). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The department received one (1) staff comment on the proposed amendment.

COMMENT #1: Staff noticed an error in the reference to the incorporated by reference publisher.
RESPONSE AND EXPLAINATION OF CHANGE: The department has modified the reference to the most current publisher.

2 CSR 30-10.010 Inspection of Meat and Poultry

(2) The standards used to inspect Missouri meat and poultry slaughter and processing shall be those shown in Part 300 to end of Title 9, the Code of Federal Regulations (January 2023), herein incorporated by reference and made a part of this rule as published by the United States Government Publishing Office, 732 N. Capitol Street NW, Washington, DC 20402-0001, phone: toll-free (866) 512-1800, DC area (202) 512- 1800, website: http://bookstore.gpo.gov. This rule does not incorporate any subsequent amendments or additions.

TITLE 2 – DEPARTMENT OF AGRICULTURE
Division 80 – State Milk Board
Chapter 5 – Inspections

ORDER OF RULEMAKING

By the authority vested in the State Milk Board under section 196.939, RSMo 2016, the board amends the rule as follows:

2 CSR 80-5.010 Inspection Fees **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on February 15, 2023 (48 MoReg 307). No changes have been made to the text of the proposed amendment, so it is not reprinted here. The proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

TITLE 5 – DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION
Division 20 – Division of Learning Services
Chapter 100 – Office of Quality Schools

ORDER OF RULEMAKING

By the authority vested in the State Board of Education (board) under sections 160.530 and 162.203, RSMo Supp. 2022, and section 161.092, RSMo 2016, the board amends a rule as follows:

5 CSR 20-100.340 School Board Member Orientation and Training **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on February 1, 2023 (48 MoReg 200-201). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after the publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

TITLE 5 – DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION
Division 20 – Division of Learning Services
Chapter 300 – Office of Special Education

ORDER OF RULEMAKING

By the authority vested in the State Board of Education (board) under sections 161.092 and 162.685, RSMo 2016, the board

amends a rule as follows:

5 CSR 20-300.110 Individuals with Disabilities Education Act, Part B **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on February 1, 2023 (48 MoReg 200). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Department of Elementary and Secondary Education (department) held public hearings on this proposed amendment on January 19, January 31, and March 6, 2023. Written public comment was accepted from January 17 through March 3, 2023. Eight (8) written public comments received by email during the public comment period were made on the proposed amendment.

COMMENT #1: The department received one (1) comment requesting reconsideration of the caseload requirements for the early childhood special education final expenditure report for speech/language pathologists.
RESPONSE: This comment was not relevant to any of the proposed changes. No changes have been made to the State Plan as a result of this comment.

COMMENT #2: The department received seven (7) comments from seven (7) individuals on the State Plan in support of the proposed change to add a copy of the Parents' Bill of Rights when providing the procedural safeguards to parents of a student with a disability.
RESPONSE: No changes have been made to the State Plan as a result of this comment.

COMMENT #3: The seven (7) individuals providing Comment #2 further supported adding language stating the Parents' Bill of Rights would be read aloud to parents and/or students prior to the start of any meetings pursuant to the Individuals with Disabilities Education Act.
RESPONSE: This comment was not relevant to any of the proposed changes. No changes have been made to the State Plan as a result of these comments.

TITLE 6 – DEPARTMENT OF HIGHER EDUCATION AND WORKFORCE DEVELOPMENT
Division 250 – University of Missouri
Chapter 2 – Bylaws of the Board of Curators

ORDER OF RULEMAKING

By the authority vested in the Missouri Department of Higher Education and Workforce Development under section 172.100, RSMo 2016, the department rescinds a rule as follows:

6 CSR 250-2.030 Officers of the Board of Curators **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on March 1, 2023 (48 MoReg 437). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

TITLE 6 – DEPARTMENT OF HIGHER EDUCATION AND WORKFORCE DEVELOPMENT
Division 250 – University of Missouri
Chapter 2 – Bylaws of the Board of Curators

ORDER OF RULEMAKING

By the authority vested in the Missouri Department of Higher Education and Workforce Development under section 172.100, RSMo 2016, the department rescinds a rule as follows:

6 CSR 250-2.040 Committees of the Board of Curators **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on March 1, 2023 (48 MoReg 437-438). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

TITLE 6 – DEPARTMENT OF HIGHER EDUCATION AND WORKFORCE DEVELOPMENT
Division 250 – University of Missouri
Chapter 2 – Bylaws of the Board of Curators

ORDER OF RULEMAKING

By the authority vested in the Missouri Department of Higher Education and Workforce Development under section 172.100, RSMo 2016, the department rescinds a rule as follows:

6 CSR 250-2.050 The President of the University **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on March 1, 2023 (48 MoReg 438). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

TITLE 7 – MISSOURI DEPARTMENT OF TRANSPORTATION
Division 10 – Missouri Highways and Transportation Commission
Chapter 7 – Transportation

ORDER OF RULEMAKING

By the authority vested in the Missouri Highways and Transportation Commission under section 208.265, RSMo 2016, the commission amends a rule as follows:

7 CSR 10-7.010 Distribution of Funds Appropriated to the Missouri Elderly and Handicapped Transportation Assistance Program **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register*

on January 17, 2023 (48 MoReg 123-124). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

TITLE 7 – MISSOURI DEPARTMENT OF TRANSPORTATION
Division 10 – Missouri Highways and Transportation Commission
Chapter 7 – Transportation

ORDER OF RULEMAKING

By the authority vested in the Missouri Highways and Transportation Commission under section 226.195, RSMo 2016, the commission amends a rule as follows:

7 CSR 10-7.030 Distribution of Funds Appropriated to the Missouri State Transit Assistance Program **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 17, 2023 (48 MoReg 124-125). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

TITLE 7 – MISSOURI DEPARTMENT OF TRANSPORTATION
Division 265 – Motor Carrier and Railroad Safety
Chapter 9 – Rail Fixed Guideway Systems

ORDER OF RULEMAKING

By the authority vested in the Missouri Highways and Transportation Commission under sections 389.1005 and 622.027, RSMo 2016, the commission amends a rule as follows:

7 CSR 265-9.010 Applicability of Chapter; Definitions **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 17, 2023 (48 MoReg 125). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

TITLE 7 – MISSOURI DEPARTMENT OF TRANSPORTATION
Division 265 – Motor Carrier and Railroad Safety
Chapter 9 – Rail Fixed Guideway Systems

ORDER OF RULEMAKING

By the authority vested in the Missouri Highways and Transportation Commission under sections 389.1005 and 622.027, RSMo 2016, the commission amends a rule as follows:

7 CSR 265-9.020 State Safety Oversight Agency Authorities and Requirements **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 17, 2023 (48 MoReg 125-126). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

TITLE 7 – MISSOURI DEPARTMENT OF TRANSPORTATION
Division 265 – Motor Carrier and Railroad Safety
Chapter 9 – Rail Fixed Guideway Systems

ORDER OF RULEMAKING

By the authority vested in the Missouri Highways and Transportation Commission under sections 389.1005 and 622.027, RSMo 2016, the commission amends a rule as follows:

7 CSR 265-9.050 Signs **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 17, 2023 (48 MoReg 126). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

TITLE 7 – MISSOURI DEPARTMENT OF TRANSPORTATION
Division 265 – Motor Carrier and Railroad Safety
Chapter 9 – Rail Fixed Guideway Systems

ORDER OF RULEMAKING

By the authority vested in the Missouri Highways and Transportation Commission under sections 389.1005 and 622.027, RSMo 2016, the commission amends a rule as follows:

7 CSR 265-9.100 Rail-Highway Grade Crossing Construction and Maintenance **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 17, 2023 (48 MoReg 126-127). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

TITLE 7 – MISSOURI DEPARTMENT OF TRANSPORTATION
Division 265 – Motor Carrier and Railroad Safety
Chapter 9 – Rail Fixed Guideway Systems

ORDER OF RULEMAKING

By the authority vested in the Missouri Highways and Transportation Commission under sections 389.1005 and 622.027, RSMo 2016, the commission amends a rule as follows:

7 CSR 265-9.110 Rail-Highway Grade Crossing Warning Devices **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 17, 2023 (48 MoReg 127). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

TITLE 8 – DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
Division 10 – Division of Employment Security
Chapter 4 – Unemployment Insurance

ORDER OF RULEMAKING

By the authority vested in the Division of Employment Security under section 288.220, RSMo 2016, the division rescinds a rule as follows:

8 CSR 10-4.200 Unemployment Automation Surcharge **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on February 15, 2023 (48 MoReg 311). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

TITLE 8 – DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
Division 40 – State Board of Mediation
Chapter 2 – General Rules

ORDER OF RULEMAKING

By the authority vested in the State Board of Mediation under section 295.070, RSMo 2016, the board amends a rule as follows:

8 CSR 40-2.010 Definitions **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on February 15, 2023 (48 MoReg 311-312). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

TITLE 8 – DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
Division 40 – State Board of Mediation
Chapter 2 – General Rules

ORDER OF RULEMAKING

By the authority vested in the State Board of Mediation under section 295.070, RSMo 2016, the board amends a rule as follows:

8 CSR 40-2.100 Initial Action **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on February 15, 2023 (48 MoReg 312). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

TITLE 8 – DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
Division 40 – State Board of Mediation
Chapter 2 – General Rules

ORDER OF RULEMAKING

By the authority vested in the State Board of Mediation under section 295.070, RSMo 2016, the board amends a rule as follows:

8 CSR 40-2.140 Hearings **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on February 15, 2023 (48 MoReg 312). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

TITLE 8 – DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
Division 40 – State Board of Mediation
Chapter 2 – General Rules

ORDER OF RULEMAKING

By the authority vested in the State Board of Mediation under section 295.070, RSMo 2016, the board amends a rule as follows:

8 CSR 40-2.150 Notices of Election **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on February 15, 2023 (48 MoReg 312-313). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

TITLE 12 – DEPARTMENT OF REVENUE
Division 10 – Director of Revenue
Chapter 114 – Sales/Use Tax – Constitutional Issues

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 144.705, RSMo 2016, the director amends a rule as follows:

12 CSR 10-114.100 Determining When a Vendor Has Substantial Nexus for Use Tax **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 17, 2023 (48 MoReg 136-142). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Department of Revenue received similar comments from these four (4) members of the public: Jennifer Parrett, Brittany Fangrow, William Railsback, and Matt Bowen.

COMMENT: Four (4) comments were received asking that we include the term "sales tax" in our rule each time it mentions "use tax."
RESPONSE: Chapter 144 treats sales tax and use tax as two (2) separate taxes. SB 153 only changed the use tax laws and, therefore, no change is being made to the amendment as a result of these comments.

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

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 1.3.(1)(b), 1.3.(2), 1.3.(3), and 1.3.(4) of Article XIV, Mo. Const., the department rescinds a rule as follows:

19 CSR 30-95.010 Definitions **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on March 1, 2023 (48 MoReg 442). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 1.3.(1)(b), 1.3.(2), 1.3.(3), and 1.3.(4) of Article XIV, Mo. Const., the department rescinds a rule as follows:

19 CSR 30-95.020 General Provisions **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on March 1, 2023 (48 MoReg 442-443). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 1.3.(1)(b), 1.3.(2), 1.3.(3), and 1.3.(4) of Article XIV, Mo. Const., the department rescinds a rule as follows:

19 CSR 30-95.025 Generally Applicable Provisions **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on March 1, 2023 (48 MoReg 443). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 1.3.(1)(b), 1.3.(2), 1.3.(3), and 1.3.(4) of Article XIV, Mo. Const., the department rescinds a rule as follows:

19 CSR 30-95.028 Additional Licensing Procedures

is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on March 1, 2023 (48 MoReg 443). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 1.3.(1)(b), 1.3.(2), 1.3.(3), and 1.3.(4) of Article XIV, Mo. Const., the department rescinds a rule as follows:

19 CSR 30-95.030 Qualifying Patient/Primary Caregiver **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on March 1, 2023 (48 MoReg 443-444). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 1.3.(1)(b), 1.3.(2), 1.3.(3), and 1.3.(4) of Article XIV, Mo. Const., the department rescinds a rule as follows:

19 CSR 30-95.040 Medical Marijuana Facilities Generally **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on March 1, 2023 (48 MoReg 444). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 1.3.(1)(b), 1.3.(2), 1.3.(3), and 1.3.(4) of Article XIV, Mo. Const., the department rescinds a rule as follows:

19 CSR 30-95.050 Cultivation Facility **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on March 1, 2023 (48 MoReg 444). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 1.3.(1)(b), 1.3.(2), 1.3.(3), and 1.3.(4) of Article XIV, Mo. Const., the department rescinds a rule as follows:

19 CSR 30-95.060 Infused Products Manufacturing Facility **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on March 1, 2023 (48 MoReg 444-445). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 1.3.(1)(b), 1.3.(2), 1.3.(3), and 1.3.(4) of Article XIV, Mo. Const., the department rescinds a rule as follows:

19 CSR 30-95.070 Testing Facility **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on March 1, 2023 (48 MoReg 445). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received

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

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 1.3.(1)(b), 1.3.(2), 1.3.(3), and 1.3.(4) of Article XIV, Mo. Const., the department rescinds a rule as follows:

19 CSR 30-95.080 Dispensary Facility **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on March 1, 2023 (48 MoReg 445). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 1.3.(1)(b), 1.3.(2), 1.3.(3), and 1.3.(4) of Article XIV, Mo. Const., the department rescinds a rule as follows:

19 CSR 30-95.090 Seed-to-Sale Tracking **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on March 1, 2023 (48 MoReg 445-446). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 1.3.(1)(b), 1.3.(2), 1.3.(3), and 1.3.(4) of Article XIV, Mo. Const., the department rescinds a rule as follows:

19 CSR 30-95.100 Transportation Facility **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on March 1, 2023 (48 MoReg 446). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 1.3.(1)(b), 1.3.(2), 1.3.(3), and 1.3.(4) of Article XIV, Mo. Const., the department rescinds a rule as follows:

19 CSR 30-95.110 Physicians **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on March 1, 2023 (48 MoReg 446). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

TITLE 19 – DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 100 – Division of Cannabis Regulation
Chapter 1 – Marijuana

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 1.3.(1)(b), 1.3.(2), 2.4(1)(b), and 2.4(4) of Article XIV, Mo. Const., the department adopts a rule as follows:

19 CSR 100-1.010 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on March 1, 2023 (48 MoReg 449-453). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Department of Health and Senior Services received twenty-eight (28) comments on the proposed rule.

COMMENT #1: Jennifer Rhoads, Gini Fite, and David Mason commented, "Please add a definition pertaining to "restaurant" which appears in Article XIV Section 2 Subsection 5 (6) (b) needs to be added to include "Any fixed or mobile restaurant; coffee shop; cafeteria; short order cafe; luncheonette; grill; tearoom; sandwich shop; soda fountain; tavern; bar; cocktail lounge; night club; roadside stand; industrial feeding establishment; private, public, or nonprofit organization or institution

routinely serving food; catering kitchen, commissary, or similar place in which food or drink is placed for sale or for service on the premises or elsewhere; and any other eating or drinking establishment or operation where food is served or provided for the public with or without charge." In accordance with the definition of "Food service establishment" from the Missouri Indoor Clean Air Act."

RESPONSE: This rule defines terms that are used in 19 CSR 100-1. Because the term "restaurant" is not used in 19 CSR 100-1, a definition is unnecessary. No changes have been made to the proposed rule as a result of this comment.

COMMENT #2: Jennifer Rhoads, Gini Fite, and David Mason commented, "Please add a definition pertaining to "without consideration" which appears in Article XIV Section 2 Subsection 10 (1) (a), and Section 2 Subsection 10 (5) needs to include that gifting is restricted to this "Personal Use" section and does not allow licensed facilities nor licensed agents operating on behalf of a licensed facility to gift marijuana. This is also an important youth-prevention strategy and can reasonably argued is necessary since all references to gifting fall under the "Personal Use" subsection. This would prevent "free samples" from being distributed on site or off site by licensed facilities regardless of the use of a "statewide track and trace system" or a "Seed-to-sale tracking system"."

RESPONSE: This rule defines terms that are used in 19 CSR 100-1. Because the term "without consideration" is not used in 19 CSR 100-1, a definition is unnecessary. No changes have been made to the proposed rule as a result of this comment.

COMMENT #3: Sarah Schappe from JCAR commented, "19 CSR 100-1.010(73) defines "preroll". This definition does not include the line that says "Prerolls may or may not include a filter or crutch at the base of the product." That sentence is in the Constitutional provisions for the definition of "preroll" and in the rule definition of "infused preroll" in 19 CSR 100-1.010(38). Was there a reason it was left out of the definition of "preroll"?"

RESPONSE AND EXPLANATION OF CHANGE: The definition of preroll has been revised as a result of this comment, now 19 CSR 100-1.010(78).

COMMENT #4: Jennifer Rhoads, Gini Fite, and David Mason requests that a definition pertaining to "attractive to children" which appears in Article XIV Section 2 Subsection 4(4)(e) and Article XIV Section 2 Subsection 9(4). This definition needs to define children as "persons under 21" and "attractive" as "including but not limited to the shape or any part of the shape of a human, animal, toy, or fruit, including realistic, artistic, caricature, or cartoon renderings or similar images and items typically marketed towards minors, or references to products that are commonly associated with minors or marketed to minors;" consistent with wording found in Proposed Rule: Packaging, Labeling, and Product Design with some additions.

RESPONSE: The term "children" is commonly understood to mean individuals younger than the age of majority and will be applied the same way in these rules. The term "attractive" is commonly understood to mean appealing to the senses. The rules that discuss the phrase "attractive to children" explain what that means using specific prohibitions. No changes have been made to the proposed rule as a result of this comment.

COMMENT #5: Jennifer Rhoads, Gini Fite, and David Mason request the addition of a definition pertaining to "cartoon" which appears in Proposed Rules "Facilities Generally" and "Packaging, Labeling, and Product Design" that includes "Any drawing or other depiction of an object, person, animal, creature or any similar caricature which may exhibit the following criteria:

a) The use of comically exaggerated features;

b) The attribution of human characteristics to animals, plants, or other objects, or the similar use of anthropomorphic technique;

c) The attribution of unnatural or extra-human abilities, such as imperviousness to pain or injury, X-ray vision, tunneling at very high speeds or transformation." Which would be similar to definitions used in Oregon OAR 845-025-1015(16) and 845-025-7000(12)."

RESPONSE: Defining cartoon would raise the question of the difference between cartoon, caricature, and artistic renderings, which are all included in the rule. Additionally, the "shape or any part of the shape of a human" would encompass the attribution of human characteristics to other objects. Accordingly, Ms. Rhoads' suggestion does not add to the prohibitions already contained in the packaging, labeling, and product design rule, so no changes have been made to the proposed rule as a result of this comment.

COMMENT #6: Andrew Lammert requests that 19 CSR 100-1.010(3) be amended claiming that DCR's definition is more stringent than the definitions set forth in the regulations for Alcohol.

RESPONSE: The department has carefully considered numerous comments received prior to the publishing of the proposed rules and how the marijuana advertising rule compares to the regulations regarding advertising and promotion of alcohol. No changes have been made to the proposed rule as a result of this comment.

COMMENT #7: Nicholas Rinella requests that the Department delete 19 CSR 100-1.010(3)(A) in its entirety.

XIV Section 2 says states:

Regulate the advertising and promotion of marijuana sales, but any such regulation shall be no more stringent than comparable state regulations on the advertising and promotion of alcohol sales.

Since packaging is a form of advertising and there is no such restrictions on color or what can be said in advertising of alcohol it seems that limiting either would be simply unconstitutional.

RESPONSE: This definition was mirrored after the definition of advertising in the alcohol regulation 11 CSR 70-2.240, which specifically provides that the following do not constitute advertisements: "Any label affixed to any container of intoxicating liquor *or any individual covering, carton, or other wrapper of a container*" (emphasis added). Excluding packaging from the definition of advertisement is in line with the definition in the alcohol regulations. Because packaging is not included in the definition of advertisement, it may not serve as a means for advertising, so the limitations on packaging need not be compared to regulations on advertising of alcohol. No change has been made to the proposed rule as a result of this comment.

COMMENT #8: Amanda Shifflet suggests removing from the definition in 19 CSR 100-1.010(43) of mandatory test, "using a homogenized sample for analysis created from a harvest or process lot."

RESPONSE AND EXPLANATION OF CHANGE: The definition of mandatory test has been revised in response to this comment, now 19 CSR 100-1.010(46).

COMMENT #9: Missouri Department of Health and Senior Services staff suggested changing the definition of administrative hold to clarify that a licensee may not

conduct any activities with marijuana product while it is on administrative hold, whether due to an investigation failed testing, or otherwise.
RESPONSE AND EXPLANATION OF CHANGE: The definition in 19 CSR 100-1.010(2) has been revised in response to this comment.

COMMENT #10: Missouri Department of Health and Senior Services staff suggested including the word "billboards" in the definition of advertisement, as this is a common type of advertising and was specifically outlined in past rules, so to make it clear that it is still a part of advertisement it was requested to be added.
RESPONSE AND EXPLANATION OF CHANGE: The definition in 19 CSR 100-1.010(3) has been revised in response to this comment.

COMMENT #11: Missouri Department of Health and Senior Services staff suggested including a definition of "Applicant" for clarification purposes.
RESPONSE AND EXPLANATION OF CHANGE: A definition for "Applicant" has been added to this rule in response to this comment, 19 CSR 100-1.010(4).

COMMENT #12: Missouri Department of Health and Senior Services staff suggested removing the comma between "harvest" and "that" in the "batch" definition.
RESPONSE AND EXPLANATION OF CHANGE The definition of "batch," now in 19 CSR 100-1.010(6), has been revised in response to this comment.

COMMENT #13: Missouri Department of Health and Senior Services staff suggested adding a definition for "contractor" in order to clear up any confusion.
RESPONSE AND EXPLANATION OF CHANGE: A definition for "Contractor" has been added to this rule in response to this comment, 19 CSR 100-1.010(18).

COMMENT #14: Missouri Department of Health and Senior Services staff suggested adding a definition for "Historic Rate of Incarceration" in order for it to be clear how the department arrived at its numbers.
RESPONSE AND EXPLANATION OF CHANGE: A definition for "Historic Rate of Incarceration" has been added to this rule in response to this comment, 19 CSR 100-1.010(37).

COMMENT #15: Missouri Department of Health and Senior Services staff suggested modifying the definition of immature plant to make it clear that the immature plant can neither be taller than eight (8) inches nor wider than eight (8) inches.
RESPONSE AND EXPLANATION OF CHANGE: The definition of immature plant, now in 19 CSR 100-1.010(40), was revised to reflect this comment.

COMMENT #16: Missouri Department of Health and Senior Services staff pointed out that the definition of infused preroll was missing a period and needed a space between it and the next line.
RESPONSE AND EXPLANATION OF CHANGE: The definition in 19 CSR 100-1.010(41)(C) was revised to add a period after "...surface of the product" and a line break was added before "Infused prerolls may or may not include..."

COMMENT #17: Missouri Department of Health and Senior Services staff suggested adding a definition for what a "non-violent marijuana offense" means for clarification purposes.
RESPONSE AND EXPLANATION OF CHANGE: A definition for "non-violent marijuana offense" was added to 19 CSR 100-1.010(72) in response to this comment.

COMMENT #18: Missouri Department of Health and Senior Services staff suggested adding a definition for what "ownership interest" is for the purposes of clarification.
RESPONSE AND EXPLANATION OF CHANGE: A definition for "ownership interest" was added to 19 CSR 100-1.010(75) in response to this comment.

COMMENT #19: Missouri Department of Health and Senior Services staff suggested adding to the definition of preroll that it may or may not include a filter or a crutch at the base of the product, in order to be in line with the language utilized in the Article XIV.
RESPONSE AND EXPLANATION OF CHANGE: The definition in 19 CSR 100-1.010(78) was revised to reflect this comment by adding a new line below (B).

COMMENT #20: Missouri Department of Health and Senior Services staff suggested adding a definition of "shared space" for clarification purposes.
RESPONSE AND EXPLANATION OF CHANGE: A definition for "shared space" was added to the rule in response to this comment. 19 CSR 100-1.010(87).

COMMENT #21: Missouri Department of Health and Senior Services staff suggested adding a definition for "variance" for clarification purposes.
RESPONSE AND EXPLANATION OF CHANGE: A definition for "variance" was added to the rule in response to this comment, 19 CSR 100-1.010(97).

COMMENT #22: Missouri Department of Health and Senior Services staff suggested adding a definition for "waiver" for clarification purposes.
RESPONSE AND EXPLANATION OF CHANGE: A definition for "waiver" was added to the rule in response to this comment, 19 CSR 100-1.010(98).

COMMENT #23: Missouri Department of Health and Senior Services staff suggested adding a definition for "warehouse" for clarification purposes.
RESPONSE AND EXPLANATION OF CHANGE: A definition for "warehouse" was added to the rule in response to this comment, 19 CSR 100-1.010(99).

COMMENT #24: Mr. Lammert requests in 19 CSR 100-1.010(85) that, "in light of the totality of the circumstances" be removed due to the argument that it is vague and amiguous and is assumed that Department of Health and Senior Services will consider all evidence and circumstances.
RESPONSE: This definition was carefully crafted to ensure that the department can consider many factors in its determination of whether two (2) entities are under substantially common control, ownership, or management. No change has been made to the definition of substantially common control, ownership, or management.

COMMENT #25: Missouri Department of Health and Senior Services staff suggested changing the facility designations to remove "marijuana" and "facility" when discussing different licensee types to be consistent with the use of the terms throughout the chapter.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.010(11), (13), (15), (46), (59), (61), (63), (67), (70), and (95) were revised in response to this comment.

COMMENT #26: Missouri Department of Health and Senior Services staff suggested changing the definition of licensee to clarify that it is only referring to entities that operate facilities, and not identification cardholders who were issued a license pursuant to these rules.

RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.010(42) was revised in response to this comment.

COMMENT #27: Missouri Department of Health and Senior Services staff suggested deleting the definition of homogenization due to the removal of the requirement for homogenization in the testing rule and the resulting elimination of the use of that term throughout the chapter.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.010(35) was deleted in response to this comment.

COMMENT #28: Missouri Department of Health and Senior Services staff suggested adding a definition of congressional district consistent with the requirements of Article XIV to clarify that the districts referred to in rule are as drawn December 2018.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.010(16) was added in response to this comment.

19 CSR 100-1.010 Definitions

(2) "Administrative hold" means a status given to marijuana product by the department that prohibits any activity with the marijuana product including waste, sale, or transfer of the marijuana product until the hold is lifted.

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

(4) "Applicant" means the entity applying for a license, certification, or identification card.

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

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

(7) "Church" means a permanent building primarily and regularly used as a place of religious worship.

(8) "Clone" means a marijuana vegetative cutting.

(9) "Comprehensive facility" means a comprehensive marijuana cultivation facility, comprehensive marijuana dispensary facility, or a comprehensive marijuana-infused products manufacturing facility.

(10) "Comprehensive marijuana cultivation facility" means a facility licensed by the department where marijuana cultivation operations for medical or adult use occur.

(11) "Comprehensive cultivation licensee" means an entity licensed by the department to engage in the process of cultivating marijuana for medical or adult use at a comprehensive marijuana cultivation facility.

(12) "Comprehensive marijuana dispensary facility" means a facility licensed by the department where marijuana product is dispensed for medical or adult use.

(13) "Comprehensive dispensary licensee" means an entity licensed by the department to engage in the process of dispensing marijuana product for medical or adult use at a comprehensive marijuana dispensary facility.

(14) "Comprehensive marijuana-infused products manufacturing facility" means a facility licensed by the department where marijuana-infused products and prerolls are manufactured for medical or adult use.

(15) "Comprehensive manufacturing licensee" means an entity licensed by the department to engage in the process of manufacturing marijuana-infused products and prerolls for medical or adult use at a comprehensive marijuana-infused products manufacturing facility.

(16) "Congressional district" means a United States congressional district in the state of Missouri pursuant to the map of each of the eight (8) congressional districts as drawn and effective on December 6, 2018.

(17) "Consumer" means a person who is at least twenty-one (21) years of age.

(18) "Contractor" means a person performing work or service of any kind for a marijuana facility in accordance with a contract with that facility.

(19) "Cultivation facility" means a medical marijuana cultivation facility, a comprehensive marijuana cultivation facility, or a microbusiness wholesale facility licensed to cultivate marijuana.

(20) "Dangerous material" means any substance or material that is capable of posing an unreasonable risk to health, safety, and property.

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

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

(23) "Department" means the Department of Health and Senior Services, or its successor agency.

(24) "Dispensary facility" means a medical marijuana dispensary facility, a comprehensive marijuana dispensary facility, or a microbusiness dispensary facility.

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

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

(27) "Elementary or secondary school" means any public

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

(28) "Enclosed, locked facility" means a stationary, fully enclosed, locked space –

(A) Equipped with functioning security devices that permit access to only the consumer(s), qualifying patient(s), or primary caregiver(s) who have informed the department that this is the space where they will cultivate marijuana; and

(B) Where plants are not be visible to the unaided eye from a public space.

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

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

(31) "Facility agent" means an individual who holds an agent identification card issued by the department.

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

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

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

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

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

(37) "Historic rate of incarceration" means the average annual number of incarcerated offenders for marijuana-related offenses, per one hundred thousand (100,000) individuals of the general population within the same jurisdiction, for twenty (20) years prior to the passage of Article XIV, Section 2 of the *Missouri Constitution*.

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

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

(40) "Immature plant" means a non-flowering marijuana plant that is neither taller than eight (8) inches nor wider than eight (8) inches.

(41) "Infused preroll" means a consumable or smokable marijuana product, generally consisting of –

(A) Wrap or paper;

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

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

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

(42) "Licensee" means an entity licensed or issued a certificate by the department to operate a medical or marijuana facility under Article XIV of the *Missouri Constitution*.

(43) "Limited access area" means all areas within a facility other than any public access points where individuals are screened for approval to enter.

(44) "Local government" means, in the case of an incorporated area, a village, town, or city; and, in the case of an unincorporated area, a county.

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

(46) "Mandatory test" means a test required before a marijuana product can be sold to consumers, qualifying patients, or primary caregivers.

(47) "Manufacturing facility" means a medical marijuana-infused products manufacturing facility, a comprehensive marijuana-infused products manufacturing facility, or a microbusiness wholesale facility licensed to manufacture marijuana.

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

(49) "Marijuana facility" means a comprehensive marijuana cultivation facility, comprehensive marijuana dispensary facility, comprehensive marijuana-infused products manufacturing facility, marijuana testing facility, transportation facility, microbusiness wholesale facility,

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

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

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

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

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

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

(55) "Marijuana testing facility" means a facility certified by the department where testing of marijuana product is authorized to occur.

(56) "Marijuana testing licensee" means an entity certified by the department to engage in the testing of marijuana product at a marijuana testing facility.

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

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

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

(60) "Medical marijuana dispensary facility" means a facility licensed by the department where marijuana is dispensed only for medical use.

(61) "Medical dispensary licensee" means an entity licensed by the department to engage in the process of dispensing marijuana only for medical use at a medical marijuana dispensary facility.

(62) "Medical marijuana-infused products manufacturing facility" means a facility licensed by the department where marijuana-infused products and prerolls are manufactured only for medical use.

(63) "Medical-infused products manufacturing licensee" means an entity licensed by the department to engage in the process of manufacturing marijuana-infused products and prerolls only for medical use at a medical marijuana-infused products manufacturing facility.

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

(65) "Method of administration" means the tool(s) used to administer marijuana product.

(66) "Microbusiness dispensary facility" means a microbusiness facility licensed by the department where marijuana is dispensed for medical or adult use.

(67) "Microbusiness dispensary licensee" means an entity licensed by the department to engage in the process of dispensing marijuana for medical or adult use at a microbusiness dispensary facility.

(68) "Microbusiness facility" means a microbusiness dispensary facility or a microbusiness wholesale facility.

(69) "Microbusiness wholesale facility" means a microbusiness facility licensed by the department where marijuana cultivation operations for medical or adult use occur and/or where marijuana-infused products and prerolls are manufactured for medical or adult use.

(70) "Microbusiness wholesale licensee" means an entity licensed by the department to engage in the process of cultivating marijuana for medical or adult use and/or manufacturing marijuana-infused products and prerolls for medical or adult use at a microbusiness wholesale facility.

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

(72) "Non-violent marijuana offense" means a marijuana offense that does not include, within the same criminal episode, any other offense that is violent in nature.

(73) "Nurse practitioner" means an individual who is licensed and in good standing as an advanced practice registered nurse, or successor designation, under Chapter 335 of the *Revised Statutes of Missouri*.

(74) "Owner" means an individual or other entity having a financial or voting interest in ten percent (10%) or greater of a medical or marijuana facility license.

(75) "Ownership interest" means any amount of financial or voting interest in a medical or marijuana facility license.

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

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

(78) "Preroll" means a consumable or smokable marijuana product, generally consisting of –

(A) A wrap or paper; and

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

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

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

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

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

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

(83) "Qualifying medical condition" means the condition of, symptoms related to, or side-effects from the treatment of –

(A) Cancer;

(B) Epilepsy;

(C) Glaucoma;

(D) Intractable migraines unresponsive to other treatment;

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

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

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

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

(I) Any terminal illness; or

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

(84) "Qualifying patient" means an individual diagnosed with at least one (1) qualifying medical condition.

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

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

(87) "Shared space" means space shared by one (1) or more licensees, which may include services utilized as part of sharing space.

(88) "Signature" means a handwritten, typed, or electronic signature.

(89) "SOP" means standard operating procedure.

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

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

(92) "Transfer" means the movement of marijuana between facilities.

(93) "Transportation" means the transfer or delivery of marijuana.

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

(95) "Transportation licensee" means an entity certified by the department to engage in the transportation of marijuana product to or from a medical or marijuana facility; or to a qualifying patient, primary caregiver, or consumer.

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

(97) "Variance" means an alternate requirement from a rule or specific provision of a rule which, if approved by the department, allows a licensee to be considered compliant with the rule or specific requirement of rule by complying with the approved alternate requirement

(98) "Waiver" a department exemption from compliance with a rule or specific provision of a rule which, if approved by the department, allows a licensee to be considered compliant with the exempted rule or specific provision of rule.

(99) "Warehouse" means a facility granted a certificate by the department for off-site storage of marijuana product.

TITLE 19 – DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 100 – Division of Cannabis Regulation

Chapter 1 – Marijuana

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 1.3.(1)(b), 1.3.(2), 2.4(1)(b), and 2.4(4) of Article XIV, Mo. Const., the department adopts a rule as follows:

19 CSR 100-1.020 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on March 1, 2023 (48 MoReg 453-455). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Department of Health and Senior Services received twenty-nine (29) comments on the proposed rule.

COMMENT #1: Ellyn Stimac commented, "My name is Ellyn Stimac and I work for a cannabis compliance company called Simplifya. We create compliance content for licensed operators in multiple states, including Missouri.
I'm reaching out today to clarify what rules will be used to regulate adult use and medical marijuana businesses come February 3rd. I have seen the proposed emergency rules that go into effect on February 3rd, but I was unsure if those overrode the prior medical marijuana rules (19 CSR 30-95) or are to be followed alongside those older medical-only rules.
I appreciate your assistance in this matter, and please let me know if you have any questions."
RESPONSE: This comment is not requesting a change to the rules but rather asks which rules are in place. No changes have been made to the proposed rules as a result of this comment.

COMMENT #2: J.B. Waggoner commented, "Have the proposed rules for the Division for Cannabis Regulation been published in the Missouri Register yet? I am trying to determine the start of the 30-day comment period and am not finding the publication date.
Title 19 – DEPARTMENT OF HEALTH AND SENIOR SERVICES
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PROPOSED RULE"
RESPONSE: This comment inquires about the timing of publication in the Missouri Register. It does not make any recommended changes to the rules. No changes have been made to the proposed rules as a result of this comment.

COMMENT #3: Lili Schliesser commented, "I wanted to pass along a resource to share with the cannabis dispensaries now that recreational cannabis sales have begun. Fake IDs are very commonly used by minors to purchase alcohol and tobacco, and our organization is concerned about underage cannabis availability. The Show Me ID app from the Missouri Division of Alcohol and Tobacco Control allows retail cashiers to verify the authenticity of IDs with their phones. It can be downloaded from Google Play or the Apple Store under 'Show Me ID'."
RESPONSE: This comment does not provide a proposed revision to the rule but rather provides a resource for helping the industry verify proper IDs. No changes have been made to the proposed rules as a result of this comment.

COMMENT #4: Alice Norris commented, "I very much support the proposed Rules for Article XIV, it's important to have clear and enforceable rules to protect our youth. Please don't let the marijuana industry take any of these rules away."
RESPONSE: This comment does not request any changes to the rules. No changes have been made to the proposed rules as a result of this comment.

COMMENT #5: Maureen Power commented, "I am in favor of the strictest rules available for the sale of Marijuana for Medical and Personal use. I appreciate the suggestions to amend the rules for sale and define the packaging so children are not tempted in purchasing or using marijuana. I did not vote in favor of legalizing marijuana for sale. I understand that it helps for medical purposes but I have very grave concerns for the sale for personal uses."
RESPONSE: This comment does not request any changes to the rules. No changes have been made to the proposed rules as a result of this comment.

COMMENT #6: J.B. Waggoner commented, "Most of the rule changes are being presented in the context of the government being compelled to act under emergency rule due to the adoption of a constitutional amendment. The fact remains that much more than what is required by said amendment is being lumped into that action – in other words, under false pretense. Every one of the draft rules being prepared for submission under the emergency rule process is full items that need further review, modification, and in many cases, full redaction."
RESPONSE: This comment does not request any specific changes to the rules. No changes have been made to the proposed rules as a result of this comment.

COMMENT#7: J.B. Waggoner commented in response to the private cost, "These numbers are fictional."
RESPONSE: This comment does not request any changes to the rules. The numbers provided for private cost of rule compliance are based upon the statistics that the department currently has with regards to variance requests. No changes have been made to the proposed rules as a result of this comment.

COMMENT #8: Jennifer Rhoads, Gini Fite, and David Mason commented, "The department should consider adding general provisions that would prohibit self-service marijuana displays and vending machines."
RESPONSE: Marijuana must be sold through a licensed dispensary and as such, self-service marijuana displays and vending machines are not permitted. No changes have been made to the proposed rules as a result of this comment.

COMMENT #9: Jennifer Rhoads, Gini Fite, and David Mason commented, "Prohibit marijuana product displays (or restrict to licensed facilities), Limit online marketing techniques, such as social media campaigns, Internet search optimization, product placement, and viral marketing to the extent allowed by Article XIV, more expressly prohibit free samples of marijuana products by licensed facilities than a definition of "without consideration" would do, Prohibit brand sponsorship (e.g., athletic, music, and cultural events), Prohibit mass media advertising (e.g., television, radio, and billboard), Prohibit flavored marijuana products (including menthol and nicotine). These rules would all serve to better regulate youth use and misuse of marijuana."
RESPONSE: The suggestions made here are beyond the scope of what Art. XIV allows within the regulatory construct. Regarding the concern about regulating youth use and misuse of marijuana, the rules prohibit advertisements that appeal to children. No changes have been made to the proposed rules as a result of this comment.

COMMENT #10: Andrew Lammert commented that "not inconsistent" should be changed to "consistent" to eliminate

double negative in 19 CSR 100-1.020(3)(D).
RESPONSE: "Not inconsistent with" has a different meaning than "consistent with" and was intended here. No changes have been made as a result of this comment.

COMMENT #11: J.B. Waggoner commented related to 19 CSR 100-1.020(3)(E), "Email addresses can be unreliable. A lot of weight is being placed on this not being the case, in terms of communication and notifications."
RESPONSE: The rules require all licensees to keep the department informed of their current contact information, including email address. 1.100 states, "Licensees and applicants are deemed to have received all communications and notifications from the department on the date the department sends an email to the email address of the designated contact for the licensee or applicant." Many of the communications between the department and a licensee or applicant are automatically generated and sent through email upon input from staff personnel, so the rules are designed to communicate the importance of email as a primary means of communication. No changes have been made to the proposed rule as a result of this comment.

COMMENT #12: Andrew Lammert commented, "the words "daily gross receipts" are vague and ambiguous. Are we talking about average daily gross receipts for the year, month, etc.? Parameters for the daily gross receipts need to be added."
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.020(3)(A)2. has been revised to clarify what is meant by daily gross receipts, consistent with a similar provision 19 CSR 100-1.030.

COMMENT #13: Missouri Department of Health and Senior Services staff suggest changing 19 CSR 100-1.020(3)(A) to read the same as Article XIV with regards to calling it penalties rather than sanctions.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.020(3)(A) was revised to reflect this change for purposes of consistency.

COMMENT #14: Missouri Department of Health and Senior Services staff suggested adding to 19 CSR 100-1.020(3) a new section regarding the penalties for providing false or misleading information after a license is issued.
RESPONSE AND EXPLANATION OF CHANGE: A new 19 CSR 100-1.020(3)(D) was added to reflect this change in the rule, thus moving down other subsections.

COMMENT #15: Missouri Department of Health and Senior Services staff suggested adding to 19 CSR 100-1.020(3) a new section regarding penalties for licensees sponsoring a promotional event.
RESPONSE AND EXPLANATION OF CHANGE: A new 19 CSR 100-1.020(3)(E) was added to reflect this change in the rule, thus moving down other subsections.

COMMENT #16: Missouri Department of Health and Senior Services staff suggested changing the phrase "Notice of Pending Revocation" to "notice" to 19 CSR 100-1.020(3)(E) to be consistent with Article XIV.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.020(3)(E) (now 19 CSR 100-1.020(3)(G)) was revised to reflect this change.

COMMENT #17: Missouri Department of Health and Senior Services staff suggested including adding language to 19 CSR 100-1.020(E) to mirror the language in Article XIV regarding credible imminent threat to public safety and provide examples thereof.
RESPONSE AND EXPLANATION OF CHANGE: A paragraph and subparagraphs were added to 19 CSR 100-1.020(3)(E) (now 19 CSR 100-1.020(3)(G)) to reflect this change.

COMMENT #18: Jennifer Rhoads, Gini Fite, and David Mason request a review of 19 CSR 100-1.020 to include a maximum number of each type of marijuana facilities as was done in prior rules.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.020(2), (2)(A), (2)(A)1.-3., and (2)(B) have been revised to include these numbers.

COMMENT #19: Jennifer Rhoads, Gini Fite, and David Mason request that the department consider adding a general provision to 19 CSR 100-1.020 regarding compliance checks for compliance with minor sales that would include guidelines for using a minor for investigations by law enforcement that would be similar to "11 CSR 70-2.280 Guidelines for Using Minors in Intoxicating Liquor or Nonintoxicating Beer Investigations" and that would immune minors from liability when under the supervision of law enforcement consistent with the Missouri Revised Code for Title XX ALCOHOLIC BEVERAGES 311.722.
RESPONSE: Enforcement of the possession limits falls to law enforcement, as minors without a medical marijuana card are not regulated by DHSS. 19 CSR 100-1.030 includes a provision allowing the department to coordinate with law enforcement to enforce this chapter. No changes have been made to the proposed rule as a result of this comment.

COMMENT #20: Regarding 19 CSR 100-1.020, Annie Froeschner requests that variance fees not apply to state-mandated turnaround times due to unforeseen equipment, personnel, or testing issues.
RESPONSE: 19 CSR 100-1.020(1)(A) allows the department to waive or vary from provisions of the chapter on its own initiative. Accordingly, not every waiver or variance necessarily requires this fee. No changes have been made to the proposed rule as a result of this comment.

COMMENT #21: J.B. Waggoner requests that the fee in 19 CSR 100-1.020(1)(B)1. be eliminated.
RESPONSE: 19 CSR 100-1.020(1)(A) allows the department to waive or vary from provisions of the chapter on its own initiative. Accordingly, not every waiver or variance necessarily requires this fee. No changes have been made to the proposed rule as a result of this comment.

COMMENT #22: Gabe Jertberg suggests requiring a deadline for the department to approve or deny waiver or variance requests.
RESPONSE: The rules govern the regulation of licensees, not the department. There are numerous factors outside the department's control that affect the time it takes to approve or deny applications. No changes have been made to the proposed rule as a result of this comment.

COMMENT #23: Andrew Lammert suggests changing "will be revoked" to "may be revoked" in 19 CSR 100-1.020(3)(C).
RESPONSE AND EXPLANATION OF CHANGE: The choice of the word "will" was deliberate to remove the department's discretion, since it is serious to misrepresent or falsify an application, and such offense should lead to revocation. To further clarify, 19 CSR 100-1.020(3)(C) has been revised to say "shall" instead of "will."

COMMENT #24: The Department of Health and Senior Services staff suggested a change to 19 CSR 100-1.020(3)(B) to add "further" before the word investigation for clarity.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.020(3)(B) has been revised to reflect this suggestion.

COMMENT #25: The Department of Health and Senior Services staff suggested a change to 19 CSR 100-1.020(5)(A) to remove "and" and replace with a comma after qualifying patient and before primary caregiver, as this is grammatically correct.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.020(5)(A) was revised to reflect this change.

COMMENT #25: The Department of Health and Senior Services staff suggested a change to 19 CSR 100-1.020(5)(A)3. to change "qualifying patient or primary caregiver" to "person" so that this provision will also include consumer plant purchases.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.020(5)(A)3. was revised to reflect this change.

COMMENT #26: Raymond Flojo provided a comment inquiring about the Veterans, Health, and Community Reinvestment Fund and how someone requests payment from the state and how often those requests should be made.
RESPONSE: This comment does not provide any suggested changes to the rule and instead asks questions outside the scope of the rules. No changes have been made to the proposed rules as a result of this comment.

COMMENT #27: David Bonenberger provided a general comment asking why the rules to not provide thresholds for the amount of time it will take DHSS/DCR to process various tasks. He urges the department to publish their own reasonable accountability for executing the requests of licensees.
RESPONSE: This type of comment has been addressed more specifically when posed regarding specific rule provisions. This comment does not propose any specific changes to the rules. No changes have been made to the proposed rules as a result of this comment.

COMMENT #28: Missouri Department of Health and Senior Services staff suggests moving the provision from 19 CSR 100-1.100(6)(A)2., which is meant to refer to cardholders, licensees, and applicants but is currently in the rule that applies to licensees, to 19 CSR 100-1.020, which applies to all of those categories of entities.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.100(6)(A)2. was deleted, and new language was added to 19 CSR 100-1.020(6), to clarify that this provision applies to licensees, cardholders, and applicants.

COMMENT #29: The Missouri Cannabis Trade Association commented that the new provision in 19 CSR 100-1.020(3)(E) violates Article XIV's prohibition on advertising regulations being "more stringent than comparable state regulations on the advertising and promotion of alcohol sales." Further, the language of the provision purports to subject a licensee to discipline for sponsoring an event where *anyone* engages in activity that DHSS believes to be "violations of rule or Article XIV." This incorrectly infers that event sponsorship conveys authority or control over the event itself, the event organizer, other sponsors of the event, vendors at the event, or any attendees. This provision would therefore discourage licensees from sponsoring any event. Finally, the provision is inherently vague, in that it fails to define key terms, such as "sponsor" and "event." Moreover, it states that penalties may be imposed "for any violations of rule" without specifying which rule or rules.
RESPONSE AND EXPLANATION OF CHANGE: The previously added provision in 19 CSR 100-1.020(3)(E) has been revised to change the reference from "sponsors" to "organizes" to help clarify the intent of the provision. It has also been modified to clarify what violations are subject to this provision.

19 CSR 100-1.020 Generally Applicable Provisions

(2) Number of facility licenses.

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

1. Dispensary licenses: 27 in each congressional district;
2. Manufacturing licenses: 88; and
3. Cultivation licenses: 65.

(B) The department will restrict the aggregate number of microbusiness licenses granted in each congressional district to eighteen (18), by granting six (6) in each of the three (3) rounds, as authorized by Article XIV, section 2.4(13).

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

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

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

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

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

(D) A licensee may be subject to the penalties in (3)(A) if the licensee provides false or misleading information to the department at any time after a license is issued;

(E) A licensee that organizes an event may be subject to the penalties in (3)(A) for any violations of 19 CSR 100-1 that occur at that event;

(F) The department may impose any other remedies not inconsistent with these rules or Article XIV; and

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

1. If there is a credible and imminent threat to public safety, the department may order the licensed facility to immediately suspend all or part of the operations, including placing an administrative hold on marijuana product, until the threat has been eliminated. An imminent threat to public safety includes, but is not limited to:

A. A dangerous condition at the facility that is likely to harm employees or the public;

B. A credible report, such as from law enforcement, that diversion or inversion of marijuana product is occurring at the licensed facility;

C. A credible report that a facility's practices are permitting marijuana product to enter the regulated market without being compliantly tested.

(5) Marijuana records.

(A) Qualifying patient, primary caregiver information,

and proprietary business information maintained by the department shall not be released outside the department except for purposes authorized by federal law or Article XIV, including –

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

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

3. For the purposes of a dispensary verifying whether a particular person may purchase an amount of marijuana product; and

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

(6) Licensees, cardholders, and applicants have a continuing duty to provide the department with up-to-date contact information, including the individual who shall be the designated contact for all department communications. Licensees, cardholders, and applicants are deemed to have received all communications and notifications from the department on the date the department sends an email to the to the email address of the designated contact for the licensee, cardholder, or applicant.

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

TITLE 19 – DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 100 – Division of Cannabis Regulation
Chapter 1 – Marijuana

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 1.3.(1)(b), 1.3.(2), 2.4(1)(b), and 2.4(4) of Article XIV, Mo. Const., the department adopts a rule as follows:

19 CSR 100-1.030 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on March 1, 2023 (48 MoReg 456-461). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Department of Health and Senior Services received forty-six (46) comments on the proposed rule.

COMMENT #1: Jennifer Rhoads, Gini Fite, and David Mason commented, "The department should consider amending the purpose statement for this section to include "general advertising complaints" as well so that the public can specifically submit complaints regarding advertising."
RESPONSE AND EXPLANATION OF CHANGE: The purpose statement was drafted to be general in nature, to encompass all investigations, inspections, and complaints that may arise under the rule. Therefore, it is inappropriate to include the specific types of complaints or reasons for complaints in the purpose statement. However, upon the department's review of the purpose statement as a result of these comments, it did become apparent that the purpose statement did not include inspections, investigations, and complaints regarding licensees themselves. Therefore, the purpose statement has been amended to include licensees.

COMMENT #2: Jennifer Rhoads, Gini Fite, and David Mason commented, "The department should consider adding to Proposed Rule (1) regarding complaints to include "general facilities advertising violations." This would make it specifically clear that complaints could be received about advertising that may violate rules regarding Article XIV of the Missouri Constitution."
RESPONSE AND EXPLANATION OF CHANGE: This rule pertains to all complaints and does not specifically call out reasons for complaints or specific types of complaints. Identifying this particular type of complaint would therefore be inappropriate and inconsistent with how the rule is drafted. However, to clarify that licensees, and not just their facilities, can be the subject of a complaint, section (1) has been amended to include licensees. Additionally, the language was revised to clean up the reference to medical and marijuana facilities, since by definition, they are licensed or certified, so that language was unnecessary.

COMMENT #3: Andrew Lammert suggested rewording 19 CSR 100-1.030(4)(C) to "what remedial actions the department expects the licensee to take, and that the license may be suspended if the specified remedial actions are not taken or the violations **are not** cured within thirty (30) days."
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.030(4)(C) has been revised to reflect this change.

COMMENT #4: Andrew Lammert suggested that the language of 19 CSR 100-1.030(4)(D) be amended to read, "or specified remedial have not been actions taken."
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.030(4)(D) has been revised to address this comment, by saying, "specified remedial actions have not been taken."

COMMENT #5: Sarah Schappe commented regarding 19 CSR 100-1.030(1)(B), "The complaint shall remain confidential until either the complaint is closed or an investigation is completed." I understand this to mean that it is the department's position that the complaint and investigation are closed records. While I understand the department's desire to keep complaints confidential to protect the integrity of investigations, I do not believe the law allows that."
RESPONSE AND EXPLANATION OF CHANGE: This provision has been removed.

COMMENT #6: Sarah Schappe, David Bonenberger, and Gabe Jertberg, all expressed concerns that the actions discussed in 19 CSR 100-1.030(2)(B)3.B. are not authorized by law.
RESPONSE AND EXPLANATION OF CHANGE: Article XIV Section 2.9(9) prohibits licensees from refusing the department access to inspect the licensed premises or to audit the books and records of the facility. Section 1.3(2)(d) authorizes the department to promulgate rules related to "requirements for inspections, investigations, searches, seizures, and such additional enforcement activities as may become necessary." Additionally, Art. XIV, Section 2.4(1)(a) gives the department authority to "suspend, restrict, or revoke such licenses upon a violation of this section or a rule promulgated pursuant to this section; and impose any reasonable administrative

penalty authorized by this section or any general law enacted or rule promulgated pursuant to this section, so long as any procedure related to a suspension or revocation includes a reasonable cure period, not less than thirty days, prior to the suspension or revocation, except in instances where there is a credible and imminent threat to public health or public safety;" It is reasonable for the rule to require the licensee to provide records that they are constitutionally bound to provide. However, the language in 19 CSR 100-1.030(2)(B)3.B. has been revised to address these concerns.

COMMENT #7: Sarah Schappe commented, "19 CSR 100-1.030(5) – Can you clarify if this three initial notices of violation (which are issued prior to a hearing) or final notices of violation (after a hearing)? Is this requirement (acquiring certification or an audit) subject to review?

If this is for any violation (even a minor one) why is it not overly burdensome? A licensee could potentially get two violations for a minor infraction ten years apart and the department would be able to impose this sanction.

What is the authority for the department to require payment to a third party chosen by the department?"

RESPONSE AND EXPLANATION OF CHANGE: Changes have been made to 19 CSR 100-1.030(4) and its subdivisions to address this comment, to include adding the ability for the department to withdraw its initial notice of violation, moving the previous section (5) and its subdivisions into paragraphs (4)(B)1.-2., and revising language for clarity related to follow-up inspections.

COMMENT #8: Gabe Jertberg suggested replacing the language in 19 CSR 100-1.030(1)(B) with "If it is determined that a complaint warrants investigation, The Department shall immediately notify the licensee of the nature and allegations of the complaint." As the rule is not clear whether the complaint is kept confidential from the general public, but not the licensee, or from all parties including the licensee. The licensee should be notified of the nature and allegations in a complaint against it. A complaint received by the Occupational Health and Safety Administration (OSHA) contains pertinent information outlining any allegations made against the business in addition to providing a reasonable timeline to investigate and respond. The proposed rule would subject licensees to scrutiny and enforcement action without the opportunity to provide an explanation, violating basic tenets of due process.

RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.030(1)(B) has been revised to address this comment.

COMMENT #9: Gabe Jertberg suggested adding a new paragraph in 19 CSR 100-1.030(1)(B) that would become (1)(B)1. that would read, "1. Licensees will have 15 business days from receipt of a complaint to provide the department with a response to any allegations made – including any implemented corrective actions and results of any investigations conducted as a result of the allegations" as the rule is not clear whether the complaint is kept confidential from the general public, but not the licensee, or from all parties including the licensee. The licensee should be notified of the nature and allegations in a complaint against it. A complaint received by the Occupational Health and Safety Administration (OSHA) contains pertinent information outlining any allegations made against the business in addition to providing a reasonable timeline to investigate and respond. The proposed rule would subject licensees to scrutiny and enforcement action without the opportunity to provide an explanation, violating basic tenets of due process.

RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.030(1)(B) has been revised to address the concerns raised in this comment.

COMMENT #10: Andrew Lammert requested that the department change the rule 19 CSR 100-1.030(2)(B)1. to read, "No medical or marijuana facility licensee may refuse representatives of the department the right to inspect the licensed premises of the facility or to audit records of the facility, including records created by a third party are under the licensee's possession, custody, or control." due to concerns that the licensee may not be able to obtain those records from the third party.

RESPONSE: Licensees need to be able to access their records, even if created or maintained by a third party. If licensees have concerns that they won't be able to access their records from their third party contractor, they can revise their contracts to require that those records be made available to them. No changes have been made to the proposed rule as a result of this comment.

COMMENT #11: Andrew Lammert, David Bonenberger, and Gabe Jertberg suggested in 19 CSR 100-1.030(2)(B)2. removing the vehicles of third party contractors from being able to be inspected by the department, arguing that the licensees do not have that kind of authority over third-party contractors nor does Department of Health and Senior Services.

RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.030(2)(B)2. has been revised to include only vehicles that are used for licensee's purposes.

COMMENT #12: David Bonenberger commented with regard to 19 CSR 100-1.030(2)(B)8: "The department is not a judiciary circuit within the state of Missouri and any subpoena or subpoena duces tecum drafted by the department would not be issued by a court of law, therefore unenforceable and at best, symbolic in nature. The department could only petition the circuit court of jurisdiction, seeking a subpoena or subpoena duces tecum. If granted, it would then be served by an authorized officer of the court to the witness of record."

RESPONSE: The department has explicit authority to implement rules for "investigations, searches, seizures, and such additional enforcement activities as may become necessary from time to time." Article XIV section 1.3(2)(d). A necessary part of an investigation is to acquire relevant documents from third parties. Investigations would become meaningless if licensees could simply hide documents in the possession of others. The subpoena process as laid out in rule bears a reasonable relationship to the constitutional objective to have effective investigations and is consistent with Article XIV directives. "The challenger of a regulation bears the burden of showing that the regulation bears no reasonable relationship to the legislative objective." Foremost–McKesson, Inc. v. Davis, 488 S.W.2d 193, 197 (Mo. banc 1972). "Rules and regulations promulgated under an act will be sustained unless they are found to be unreasonable and plainly inconsistent with the act." See King v. Division of Employment Sec., 964 S.W.2d 832, 835–36 (Mo.App. W.D.,1997).

In light of the broad constitutional directives on investigations and enforcement, a subpoena to third parties is an appropriate delegation. No changes have been made to the proposed rule as a result of this comment.

COMMENT #13: Andrew Lammert suggested using the following language rather than the language utilized by the department in 19 CSR 100-1.030(3)(A)1.A.: "Blueprints of the facility clearly labeling the intended use of all spaces as well as the location of all security cameras."

RESPONSE: In 19 CSR 100-1.030(3)(A)1.A., "showing" has been changed to "clearly labeling." However, security requirements

involve more than security cameras, so no changes have been made to the proposed rule related to the comment about security information.

COMMENT #14: Andrew Lammert suggested using the following language rather than the language utilized by the department in 19 CSR 100-1.030(3)(A)1B, "All SOPs necessary for the facility licensee to conduct operations in compliance with regulations applicable to it."
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.030(3)(A)1.B. has been revised to address this comment.

COMMENT #15: Andrew Lammert suggested using the following language rather than the language utilized by the department in 19 CSR 100-1.030(3)(A)1.C., "Documentation memorializing the completion of training regarding the compliant operation of the statewide track and trace system;"
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.030(3)(A)1.C. has been revised to address this comment.

COMMENT #16: Andrew Lammert suggested adding the following language to 19 CSR 100-1.030(3)(A)1.D. and 19 CSR 100-1.030(3)(A)5.E., "so long as the federal requirements are not contrary to or inconsistent with Article XIV of the Missouri Constitution."
RESPONSE: 19 CSR 100-1.030(3)(A)1.D. and 5.E. only require documentation showing compliance with "applicable federal, state, and local requirements for the facility." No changes have been made to the proposed rule as a result of this comment.

COMMENT #17: Andrew Lammert commented that 19 CSR 100-1.030(3)(A)2.-5. have similar issues as subsections (3)(A)1.A.-D. Blueprints, SOPs, and other documents cannot "show" compliance with all regulations.
RESPONSE AND EXPLANATION OF CHANGE: Changes have been made to 19 CSR 100-1.030(3)(A)2.A., 2.B., 3.C., 4.C., 5.A., 5.C., and 5.D. to address the concerns raised in this comment.

COMMENT #18: Relating to 19 CSR 100-1.030(4)(D), Andrew Lammert requested that the gross receipts issue be addressed to be made less ambiguous.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.030(4)(D) was revised to address this concern.

COMMENT #19: Gabe Jertberg suggests adding the following language to the beginning of 19 CSR 100-1.030(3)(A)3.D.; "If the shared space request involves licenses owned by separate entities" as requiring licensees under common ownership to draft and execute a legal agreement with each other is a redundant requirement – all information that the department is requiring in said agreement can be readily addressed in the written explanation of operations and SOPs.
RESPONSE: Each license is required to operate independently, so ownership by the same entity does not necessarily mean that management, operation, and maintenance is the same. No changes have been made to the proposed rule as a result of this comment.

COMMENT #20: Missouri Department of Health and Senior Services staff suggested modifying the last sentence of the purpose to include licensees.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.030 purpose was revised to address this concern.

COMMENT #21: Missouri Department of Health and Senior Services staff suggested in 19 CSR 100-1.030(1) to change the language from "The department may receive complaints related to any licensed or certified medical and marijuana facilities" to "The department may receive complaints related to any licensed or certified medical and marijuana facility or licensee".
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.030(1) was revised to address this concern.

COMMENT #22: Missouri Department of Health and Senior Services staff suggest to modify 19 CSR 100-1.030(1)(C) to include contractors, owners, and volunteers, and to add the phrase "by the licensee" with respect to the retaliation clause of this section.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.030(1)(C) has been revised to address this concern.

COMMENT #23: Missouri Department of Health and Senior Services staff suggest to modify 19 CSR 100-1.030(2)(B)1. by removing "licensed premises of the" and changing the second facility to licensee so that this section reads "No medical or marijuana facility licensee may refuse representative of the department the right to inspect the licensed premises of the facility or to audit records of the licensee".
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.030(2)(B)1. has been revised to address this concern.

COMMENT #24: Missouri Department of Health and Senior Services staff suggest to modify 19 CSR 100-1.030(2)(B)3.B. to add "or certified" so that the section reads, "If a licensee fails to provide records, the department may impound, seize, assume control of, or summarily remove records from the licensed or certified facility" as well as to include that the Department may also make copies of records.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.030(2)(B)3.B. has been revised to address this concern.

COMMENT #25: Missouri Department of Health and Senior Services staff has suggested that the inclusion of the preservation of records in 19 CSR 100-1.030(2)(B)5. be at the expense of the licensee.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.030(2)(B)5. has been revised to address this concern.

COMMENT #26: Missouri Department of Health and Senior Services staff has pointed out that 19 CSR 100-1.030(2)(D) utilizes the term "administrative action" when this term is not utilized anywhere else in rule and the language used should be consistent across the rule.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.030(2)(D) has been revised to address this concern.

COMMENT #27: Missouri Department of Health and Senior Services staff has suggested that language with regards to requests for a new location after a change requests is approved be included in 19 CSR 100-1.030(3)(A)1.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.030(3)(A)1. has been revised to address this concern.

COMMENT #28: Missouri Department of Health and Senior Services staff point out that 19 CSR 100-1.030(3)(A)2.B. regarding the request for an SOP at the time of a licensee requesting a change such as a new space, that rather these are typically a part of the commencement inspection and as such has requested the language to appear as such.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.030(3)(A)2.B. has been revised to address this concern.

COMMENT #29: Missouri Department of Health and Senior Services staff point out that 19 CSR 100-1.030(3)(A)3.C. regarding the request for an SOP at the time of a licensee requesting a change such as sharing a space, that rather these are typically a part of the commencement inspection and as such has

requested the language to appear as such.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.030(3)(A)3.C. has been revised to address this concern.

COMMENT #30: Missouri Department of Health and Senior Services staff point out that 19 CSR 100-1.030(3)(A)4.C. requests an SOP at the time of the licensee change request but these are rather typically a part of the commencement inspection and as such has requested the language to appear as such.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.030(3)(A)4.C. has been revised to address this concern.

COMMENT #31: Missouri Department of Health and Senior Services staff point out that 19 CSR 100-1.030(3)(A)5.C. requests and SOP at the time of the licensee change request but these are rather typically a part of the commencement inspection and as such has requested the language to appear as such.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.030(3)(A)5.C. has been revised to address this concern.

COMMENT #32: Missouri Department of Health and Senior Services staff point out that 19 CSR 100-1.030(3)(E) that sixty (60) days may be too much time for such projects and has suggested that the language be modified.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.030(3)(E) has been revised to address this concern.

COMMENT #33: Missouri Department of Health and Senior Services staff suggested including "or fined" in 19 CSR 100-1.030(4)(C) when it came to the actions the department may take on a Notice of Violation that has not been cured.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.030(4)(C) has been revised to address this concern.

COMMENT #34: Missouri Department of Health and Senior Services staff suggested adding to 19 CSR 100-1.030(4)(A) that a warning is not considered a disciplinary action.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.030(4)(A) has been revised to address this concern.

COMMENT #35: Missouri Department of Health and Senior Services staff suggested adding to 19 CSR 100-1.030(4) that if a licensee can demonstrate that an initial notice of violation should not have been issued, the department will withdraw its notice of violation.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.030(4) has been revised to address this concern.

COMMENT #36: Missouri Department of Health and Senior Services staff suggested that it be outlined what should happen if there are multiple violations in a twelve (12) month period.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.030(4) has been revised to address this concern.

COMMENT #37: Missouri Department of Health and Senior Services staff suggested including in 19 CSR 100-1.030(4)(C) that the department may conduct a follow up review and to add language with regards to include, "If during such inspection or review the department" to clarify who is determining violations.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.030(4)(C) has been revised to address this concern.

COMMENT #38: Missouri Department of Health and Senior Services staff suggested that 19 CSR 100-1.030(5) and its subparts did not read as it was intended to and should be modified.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.030(5) and its subparts have been deleted and the necessary information for this has been moved under 19 CSR 100-1.030(4) as previously set forth.

COMMENT #39: Missouri Department of Health and Senior Services staff suggested that 19 CSR 100-1.030(2)(B)6. be revised to remove "or appropriate" as unnecessary.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.030(2)(B)6. has been revised to address this comment.

COMMENT #40: Missouri Department of Health and Senior Services staff suggested that 19 CSR 100-1.030(2)(B)8. be revised for clarity, by referring to the subpoena as investigative in nature, and by removing the words "individual or" before entity as entity includes individuals.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.030(2)(B)8. has been revised to address this comment.

COMMENT #41: Missouri Department of Health and Senior Services staff suggested that 19 CSR 100-1.030(2)(C) be deleted, as it is similar to a provision that was added to 19 CSR 100-1.020 related to credible and imminent threats to public safety.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.030(2)(C) has been deleted and what was subsection (2)(D) is now subsection (2)(C).

COMMENT #42: Missouri Department of Health and Senior Services staff suggested that 19 CSR 100-1.030(3)(A) be revised to change the phrase "begin sharing" to "share" for clarity.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.030(3)(A) has been revised to address this comment.

COMMENT #43: Missouri Department of Health and Senior Services staff suggested that 19 CSR 100-1.030(3)(A)3. be revised to change the phrase "begin sharing" to "share" for clarity and consistency, and to add "or modify the sharing of space" to account for cease sharing of space or change the sharing relationship.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.030(3)(A)3. and (3)(A)3.A. have been revised to address this comment. Additionally, new language was added to 19 CSR 100-1.030(3)(A)3.D. to include documentation showing previously-provided agreements no longer effective.

COMMENT #44: Missouri Department of Health and Senior Services staff suggested that 19 CSR 100-1.030(4)(B) be revised to allow withdrawal of an initial notice of violation.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.030(4)(B) has been revised to break the section into two subsections. (4)(B) is now (4)(A)1.; and a new paragraph was added as (4)(A)2. to provide the ability to withdraw the notice as suggested in the comment.

COMMENT #45: Missouri Department of Health and Senior Services staff suggested that 19 CSR 100-1.030(2)(B)3., (3)(A), and (3)(A)1.B. be revised to change "licensed or certified entities" to "licensees" for consistency.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.030(2)(B)3., (3)(A), and (3)(A)1.B. have been revised as suggested.

COMMENT #46: The MOCANN Trade Association suggests that 19 CSR 100-1.030(2)(B)3.B., which provides for ability of DHSS to seize records, be deleted. The Association suggests penalties for non-compliance is sufficient for enforcement if a licensee refuses to provide records.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.030(2)(B)3.B. has been deleted.

19 CSR 100-1.030 Complaints, Inspections, and

Investigations

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

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

(B) If the department determines a complaint against a licensed facility warrants further investigation, the department will advise the licensee of the nature of the allegations in the complaint and provide the licensee with opportunity to respond.

(C) Current and former employees, contractors, owners, and volunteers of a licensee who, in good faith, report potential rule violations to the department may not be subjected to retaliation of any kind by the licensee because of their report.

(2) Inspections and investigations.

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

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

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

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

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

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

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

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

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

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

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

(C) Applicants and licensees must cooperate in any investigation conducted by the department. Failure to cooperate with a department investigation may be grounds for denial of an application, penalties, or other remedies not inconsistent with this chapter or Article XIV.

(3) Commencement inspections.

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

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

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

B. All SOPs necessary for the licensee to conduct operations in compliance with regulations applicable to it;

C. Records documenting the completion of all required training regarding compliant operation of the state-wide track and trace system; and

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

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

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

B. Documentation to demonstrate compliance with applicable rules as related to the commencement inspection request, including but not limited to SOPs, licenses, permits, certifications, training plans, contracts, etc.;

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

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

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

A. Descriptions, schematics, or blueprints for the facility clearly indicating what spaces will be shared or no longer shared;

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

C. Documentation to demonstrate compliance with applicable rules as related to the commencement inspection request, including but not limited to SOPs, licenses, permits, certifications, training plans, contracts, etc.;

D. Copies of agreements between the licensees concerning their respective roles and their relationship for management, operation, and maintenance of the shared spaces, including an acknowledgment that all licensees sharing space will be jointly responsible for compliance with the applicable department regulations for the shared spaces, or documentation showing previously provided agreements are no longer effective, if applicable; and

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

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

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

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

C. Documentation to demonstrate compliance with applicable rules as related to the commencement inspection request, including but not limited to SOPs, licenses, permits, certifications, training plans, contracts, etc.

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

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

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

C. Documentation to demonstrate compliance with applicable rules as related to the Commencement Inspection request, including but not limited to SOPs, licenses, permits, certifications, training plans, contracts, etc.;

D. Records documenting the completion of all required training in compliant operation of the state-wide track and trace system; and

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

(E) After submitting a commencement inspection request, licensees are required to actively work to complete the changes outlined in the request and complete the changes within the time frame outlined by the licensee at the time of the commencement inspection request.

(4) Notices of violation.

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

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

2. In its written notification to the department, if the licensee can demonstrate, to the satisfaction of the department, that the Initial Notice of Violation should not have been issued, the department will withdraw the Initial Notice of Violation.

(B) Licensees that have received an Initial Notice of Violation for more than three (3) rules in a twelve (12) month period or that have ever received more than one (1) Initial Notice of Violation for violating the same regulation in a twelve (12) month period, may be required by the department to:

1. Acquire certification or accreditation to a quality management system standard chosen by the department at the expense of the licensee; or

2. Be subject to an audit of the licensee's processes or practices relevant to the violations by a third party auditor chosen by the department at the expense of the licensee.

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

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

TITLE 19 – DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 100 – Division of Cannabis Regulation
Chapter 1 – Marijuana

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 1.3.(1)(b), 1.3.(2), 2.4(1)(b), and 2.4(4) of Article XIV, Mo. Const., the department adopts a rule as follows:

19 CSR 100-1.040 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on March 1, 2023 (48 MoReg 462-472). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Department of Health and Senior Services received nineteen (19) comments on the proposed rule.

COMMENT #1: Keven Peterson commented, "If a consumer cultivator, qualifying patient, or primary caregiver uses combustible gases or other dangerous materials to extract resins from marijuana, the individual's identification card may be subject to department sanctions, including an administrative penalty of one thousand dollars ($1000) and loss of their identification card for up to one (1) year.
I would like to see a list of dangerous material. These are used to make homemade gummies Less smoke more healthy This depends on the formula used
Hash Oil is made in a similar way"
RESPONSE: This comment is not requesting a change to the rule, just additional information for the rule. No changes have been made to the proposed rule as a result of this comment.

COMMENT #2: Deb Nash commented, "For me and many patients like me the no cultivation at a place of business rule seems unfair. While I understand you don't want people cultivating at Walmart or grow shops the rule also makes someone like me have to choose between a source of income and the cultivation of my personal meds at my private residence just because I have a business that runs out of my private residence as well. For example my business if 100% virtual in nature and I have ZERO in person customers at my home/legal business address. I have ZERO employees. So except for the fact I work on the computer from home on my business my home is a private residence for all PRACTICAL purposes. I was one of the first patient cultivators in the state, and I have to STOP doing what I have done legally for years as wer move to a rec state just to be in compliance next week OR apply for a variance which I am trying but costs MORE than the cost of a 3 year card with no guarantee the will even respond in a timely manner to my request and have yet to find out HOW to pay the $100 fee or where to send the request in writing(I have now sent 2 emails asking how) There should be a automatic exemption for people cultivating at a private residence or a way to apply for a FREE exemption or ! It places a undo burden on me making me move my business legal, rent a space incurring monthly expenses to keep the space, reprint anything with my address on it, just to jump through a hoop to cultivate if my request is denied. Many sick patients sell tupperware, or make crafts, or do taxes on the side. Now they all must choose too between their income and them cultivating. Please don't make patients like me choose between their income and growing their meds. It unfair when other business are selling it for a profit and the fact i have a virtual business I can't cultivate at home?"
RESPONSE: This statement is not meant to apply to home businesses. Licensed patient and consumer cultivators are permitted to cultivate at their residence, even if they work at home. No changes have been made to the rule as a result of this comment, but the department will create an FAQ to clarify.

COMMENT #3: Pavel Suheena commented, "I don't understand why y'all insist that the plants must be limited in number and locked in an enclosed area.
I have a ravine in my back yard with plenty of privacy if that's why your worried about. I should be able to grow it there legally without having to spend 2,000 on a fence.
The fact that y'all had to legalize this in "an emergency" is evidence that y'all are [expletive] imbeciles who have no morals. Society has voted to legalize it even when y'all were making rules against it.
Stop using aggression against innocent people who have done nothing wrong by making rules that would limit our natural liberties and rights.
You are immoral aggressors if you force these unnatural and unnecessary laws."
RESPONSE: The plant limit for patients and consumers to be able to grow is set forth in Article XIV of the Missouri Constitution Section 1.3(12) and Section 2.4(24) respectively. Additionally, Article XIV Section 1.7(8) requires all qualifying patient cultivation to occur in an enclosed, locked facility that is equipped with security devices and Section 2.4(24) requires the plants cultivated by consumer be kept in a locked space and not be visible by normal, unaided vision from a public place. Due to the requirements of Article XIV of the Missouri Constitution, no changes have been made to the proposed rule based on this comment.

COMMENT #4: Regarding 19 CSR 100-1.040, Jennifer Rhoads, Gini Fite, and David Mason commented, "Please add under a provision requiring a timely report to the state by Consumers, Qualifying Patients and Primary Caregivers if marijuana is lost or stolen. This is essential to prevent marijuana from being diverted to the black market."
RESPONSE: Theft of marijuana outside a licensed facility is beyond the scope of the department's regulatory authority. If marijuana is stolen, consumers, qualifying patients, or primary caregivers can report to local law enforcement. No changes have been made to the proposed rule as a result of this comment.

COMMENT #5: Missouri Department of Health and Senior Services staff suggested closing a loophole that allows patients to purchase medical product and then sell the product and benefit from the sale.
RESPONSE AND EXPLANATION OF CHANGE: In order to address this comment, 19 CSR 100-1.040(6)(C)1.G. was added that prevents qualifying patients, primary caregiver, or cultivation card holders from advertising to sell or selling marijuana product.

COMMENT #6: Missouri Department of Health and Senior Services staff suggested removing the actual URL in 19 CSR 100-1.040 for the division's website and simply direct individuals to utilize the division's website.
RESPONSE AND EXPLANATION OF CHANGE: All mentions of the URL for the division's website were removed and replaced with a simple mention of the division's website.

COMMENT #7: Missouri Department of Health and Senior Services staff pointed out in 19 CSR 100-1.040(6)(B)2. sentence to that the word "A" was missing in front of complete.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.040(6)(B)2. was revised to reflect this correction.

COMMENT #8: Missouri Department of Health and Senior Services staff suggested including that a rule with regards to possession limits be included to make it clear as to what the possession limits were.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.040(4)(B)6. was added to ensure possession limits were clear.

COMMENT #9: Missouri Department of Health and Senior Services staff pointed out that the word cultivation was missing from 19 CSR 100-1.040(5)(D).
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.040(5)(D) was revised to include the word cultivation.

COMMENT #10: Missouri Department of Health and Senior Services staff pointed out that the word cultivation was missing from 19 CSR 100-1.040(5)(F).
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.040(5)(F) was revised to include the word cultivation.

COMMENT #11: Missouri Department of Health and Senior Services staff pointed out that there was a missing space on 19 CSR 100-1.040(5)(J)3. between cultivation and on.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.040(5)(J)3. was revised to fix this typographical error.

COMMENT #12: Missouri Department of Health and Senior Services staff point out in 19 CSR 100-1.040(6)(C)1.A. was missing a reference to Article XIV of the Missouri Constitution.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.040(6)(C)1.A. was revised to fix this oversight.

COMMENT #13: Missouri Department of Health and Senior Services staff point out a missing space in 19 CSR 100-1.040(6)(A)4.M. between number and of.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.040(6)(A)4.M. was revised to fix this typographical error.

COMMENT #14: Missouri Department of Health and Senior Services staff suggested a change that prohibits patients from getting around the possession limitations by stacking their patient possession limit and a consumer possession limit.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.040(4)(B)6. was added to address this concern.

COMMENT #15: Missouri Department of Health and Senior Services staff pointed out that 19 CSR 100-1.040(5)(J)4. contained a typo: "cultivationon" should read "cultivation on."
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.040(5)(J)4. has been revised to reflect this suggestion.

COMMENT #16: Missouri Department of Health and Senior Services staff suggested removal of all references to the department's website throughout the rules.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.040(6)(A) and (B)1.C. have been revised to remove this citation.

COMMENT #17: Missouri Department of Health and Senior Services staff pointed out that 19 CSR 100-1.040(6)(B)2. contained a typo: the second sentence should begin, "A complete application..."
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.040(6)(B)2. has been revised to reflect this suggestion.

COMMENT #18: Missouri Department of Health and Senior Services staff pointed out that 19 CSR 100-1.040(1) and (2) did not have the numbers 21 and 18 spelled out.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.040(1) and (2) have been revised to correct this error.

COMMENT #19: Missouri Department of Health and Senior Services staff suggested changing "facility" to "location" in 19 CSR 100-1.040(5)(E).
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.040(5)(E) has been revised to reflect this suggestion.

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

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

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

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

(4) Purchase and possession limitations.

(B) Qualifying patients and primary caregivers.

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

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

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

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

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

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

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

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

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

6. A patient is not permitted to exceed the possession or purchase limitations in this section by combining purchases as a patient and as a consumer.

(5) Consumer personal cultivation, qualifying patient cultivation, and primary caregiver cultivation, generally.

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

(E) Nothing in this section shall convey or establish a right to

cultivate marijuana in a location where state law or a private contract would otherwise prohibit doing so.

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

(J) Primary caregiver cultivation.

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

2. No primary caregiver cultivating marijuana for more than one (1) qualifying patient may exceed a total of twenty-four (24) flowering plants, twenty-four (24) non-flowering plants fourteen (14) inches tall or more, and twenty-four (24) non-flowering plants under fourteen (14) inches tall.

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

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

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

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

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

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

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

(6) Identification cards.

(A) Application requirements.

1. The department will receive applications for qualifying patient, primary caregiver, and cultivation authorization identification cards electronically through a department-provided, web-based application system. In the event of application system unavailability, the department will arrange to accept applications in an alternative, department-provided format and will notify the public of those arrangements through its website.

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

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

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

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

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

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

C. The qualifying patient's email address;

D. A statement confirming that –

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

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

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

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

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

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

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

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

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

(b) A copy of documentation establishing legal guardianship;

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

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

K. All applicable fees.

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

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

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

C. The primary caregiver's email address;

D. The name and patient license number of the qualifying patient for whom the applicant seeks to serve as primary caregiver;

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

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

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

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

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

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

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

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

K. All applicable fees.

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

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

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

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

D. The applicant's email address;

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

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

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

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

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

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

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

(II) The primary caregiver's name and license number, if applicable;

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

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

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

N. A statement affirming the applicant's agreement to immediately make available access to the cultivation space upon request from the department. Such access will be only for purposes of confirming compliance with this rule and will be limited to the enclosed, locked facility and any areas necessary to reach and enter the facility on a path of the applicant's choosing;

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

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

Q. All applicable fees.

(B) Application processes.

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

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

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

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

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

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

C. Current fees, including any adjustments, will be posted on the department's website.

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

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

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

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

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

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

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

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

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

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

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

6. Renewal.

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

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

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

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

C. Qualifying patient cultivation and primary caregiver cultivation identification cards are valid as long as the qualifying patient's or primary caregiver's identification card is still valid, up to three (3) years from its date of issuance.

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

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

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

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

(C) Administrative penalties.

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

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

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

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

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

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

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

G. If a qualifying patient, primary caregiver, or cultivation card holder advertises to sell or sells marijuana product, the individual's identification card may be revoked.

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

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

TITLE 19 – DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 100 – Division of Cannabis Regulation
Chapter 1 – Marijuana

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 1.3.(1)(b), 1.3.(2), 2.4(1)(b), and 2.4(4) of Article XIV, Mo. Const., the department adopts a rule as follows:

19 CSR 100-1.050 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on March 1, 2023 (48 MoReg 473-474). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Department of Health and Senior Services received nine (9) comments on the proposed rule.

COMMENT #1: Sarah Schappe commented, "19 CSR 100-1.050(1)(A) that "a certifying physician must have a current license to practice medicine. . . including those who are admitted to practice in Missouri by reciprocity. . ." Missouri law does not distinguish licensees as being admitted by reciprocity or testing once the licensed is issued, so I don't think the last sentence about reciprocity is necessary. A "physician is registered with the Missouri Board of Healing Arts as current, active, and not restricted in any way, such as by a designation as temporary or limited."
RESPONSE AND EXPLANATION OF CHANGE: The phrase "including those who are admitted to practice in Missouri by reciprocity pursuant to section 334.043, RSMo." has been removed from this provision.

COMMENT #2: Sarah Schappe commented, "19 CSR 100-1.050(1)(C)1. states "A physician is in good standing if: 1. The physician's license is registered with the Missouri Board of Healing Arts as current, active, and not restricted in any way, such as by designation as temporary or limited." Temporary licenses are issued to physicians in a residency program. (§334.045, RSMo) I am not sure that is the Department's intent. There are also a few terminology issues with this. Physicians are licensed (not registered). The correct name of the agency is the "State Board of Registration for the Healing Arts." (§334.020, RSMo.)."
RESPONSE AND EXPLANATION OF CHANGE: The language in 19 CSR 100-1.050(1)(C)1. has been revised to correct the terminology issues.

COMMENT #3: Sarah Schappe commented, "19 CSR 100-1.050(4)(I) states that the decisions of the department director is inadmissible in court. What authority does the Department have to dictate admissibility to courts?"
RESPONSE AND EXPLANATION OF CHANGE: This language has been removed from the proposed rule.

COMMENT #4: Monique Hannam requests that Assistant Physicians be considered as physicians when it comes to an individual obtaining a physician/nurse practitioner's certificate for the medical use of marijuana.
RESPONSE: Article XIV does not include "Assistant Physician." Assistant Physicians are allowed to call themselves "Doctors" because they graduated from medical school (334.036.4, RSMo), but they have not completed the necessary postgraduate training to quality for a full physician and surgeon's license (334.036.1, RSMo). The necessary postgraduate training can be as long as three (3) years and needs to be ACGME-accredited (334.035, RSMo). No changes have been made to the proposed rule as a result of this comment.

COMMENT #5: Missouri Department of Health and Senior Services staff suggested removing the website address from the rule in general.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.050 has been revised to reflect this concern.

COMMENT #6: Missouri Department of Health and Senior Services staff suggested making it clear in 19 CSR 100-1.050(3) that there would be a consequence for a physician or nurse practitioner refusing to interview with the department.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.050(3) was revised to reflect this concern.

COMMENT #7: Sarah Schappe commented regarding 19 CSR 100-1.050(4)(I) that the department doesn't have the authority to determine admissibility.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.050(4)(I) has been deleted.

COMMENT #8: The Department of Health and Senior Services staff suggested that references to the department website be removed throughout the rules.
RESPONSE AND EXPLANATION OF CHANGE: The reference to the website in 19 CSR 100-1.050(2) has been deleted.

COMMENT #9: Monique Hannam requested that the physician qualifications be expanded to allow assistant physicians to certify qualifying patients for a medical marijuana identification card.
RESPONSE: Chapter 334, RSMo. indicates that individuals with a full physician and surgeon's license must complete specific postgraduate training that assistant physicians have not completed. An assistant physician cannot practice independently and instead must practice under the supervision of a physician. The drafters of Article XIV had the opportunity to revise the law to allow for assistant physicians to certify patients at the same time they drafted an allowance for nurse practitioners, but they did not make that allowance. No changes have been made to the proposed rule as a result of this comment.

19 CSR 100-1.050 Physicians and Nurse Practitioners

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

(A) A certifying physician must have a current license to practice medicine or osteopathy. Practice of medicine or osteopathy means practice by persons who hold a physician and surgeon license pursuant to Chapter 334, RSMo.

(C) A physician is in good standing if –

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

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

(2) Physician or nurse practitioner certification. Physicians or nurse practitioners will submit certifications electronically through a department-provided, web-based system. In the event of system unavailability, the department will arrange to accept physician or nurse practitioner certifications in an alternative, department-provided format and will notify the public of those arrangements through its website.

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

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

TITLE 19 – DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 100 – Division of Cannabis Regulation
Chapter 1 – Marijuana

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 1.3.(1)(b), 1.3.(2), 2.4(1)(b), and 2.4(4) of Article XIV, Mo. Const., the department adopts a rule as follows:

19 CSR 100-1.060 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on March 1, 2023 (48 MoReg 474-487). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Department of Health and Senior Services received forty-two (42) comments on the proposed rule.

COMMENT #1: Green Zone commented, "In 19 CSR 100-1.060 Facility Applications and Selection, (6) (A) 2. 'The individual(s) conducting the lottery will do so without reference to the identities of the applicants.' Who is regulating the validity of identifiers being randomly assigned to applications without identifying the applicant first?
'3. Identifiers will be randomly drawn and listed in the order drawn.' Will the public be permitted to attend and witness the identifiers being randomly drawn? Will there be a vetting process to ensure one of each identifier goes in the drawing tumbler?
This is extremely pertinent to the public trust that the lottery selection is indeed truly random. Lyndall Fraker is still running the same program on an even larger scale that had many lawsuits about the trust and validity of the blind scoring system and this same administration tried to pass blame to the 3rd party scoring company after it was discovered the scoring company knew applicant codes and hand-picked winners by artificially giving higher scores and multipliers. At least one of the winning medical companies had a lobbyist in with the state legislation. If any elected official is involved in this process it will automatically lose all trust. Blame cannot be entirely directed at other entities when we all know some of the corruption came from Missouri executives and officials in different forms. The medical company that won in triplicate in all three facility sectors that was revealed to have connections and future promissory deals with the scoring company went across the desks of state legislators and the governor without remediation. No one lifted a finger to correct it. The medical rollout was an autocracy and no amount of PR denial by Lyndall Fraker gave anyone any amount of confidence in this system, just the opposite. If Lyndall is that unaware, won't own the mistakes, or is corrupt himself he should not be in charge anymore. We need complete transparency and an honest leader who will admit when things don't go perfectly. So please consider how much trust the medical marijuana rollout lost, the rightful anger of those applicants after all the time, money and effort just to get our essay answers, maps, articles, blueprints barely skimmed-over receiving generic scores. Now we're all very skeptical about hand-picked winners, bribery, lobbyists with the same administration and leaders that let it happen and denied it and that a similar atrocity won't happen again.
Page 40 part (3) of 19 CSR 100-1.060 Facility Applications and Selection Part G through L is unclear that all facility types are being addressed
Page 42, (4) Part (B) says 'twenty-five thousand dollars ($250,000)'. And (B) 1. says, 'net worth of less than twenty-five thousand dollars ($250,000);'"
RESPONSE: This comment provides general inquiries and not requests for changes in the rule. Regarding 19 CSR 100-1.060(3)(G)-(L), the start to section (3) makes it clear that this involves all medical and marijuana facilities, as defined in 19 CSR 100-1.010. Regarding 19 CSR 100-1.060(4)(B), this typo was corrected prior to the publishing of the rules in the register. No changes have been made as a result of this comment.

COMMENT #2: Barry Foote commented, "19 CSR 100-1.060 (4) B – It states:
For applicants claiming of a net worth of less than Twenty-Five Thousand Dollars ($250,000.00) and low income.
It states Twenty five Thousand but is represented by $250,000.00 and again in Subsection (1) Sworn statement to attest to the fact of twenty five thousand but is represented as ($250,000.00).
Also pertaining to this section, how is someone who has been disabled all their life, has received SSI minimum benefits all their life which has never been over $10,000.00, has been a dependent on their parents tax returns, and never filed taxes, supposed to present supporting documents when none exist other then the parents tax filings?
My son is 35 years old with Epilepsy from the age of 4 ½ months old, has been unemployable due to the liability "risks of injury" while on the job, has been a Medical Marajuana Patient now in 2 states since 2012 and has also cultivated his own medicine in the State of Oregon. He would like to contribute his knowledge and passion to helping people who have conditions like his and other debilitating conditions.
This is just one scenario of low income individuals trying to better themselves."
RESPONSE: The typo identified in this comment was corrected prior to the publishing of the rules in the register. As for the rest of Mr. Foote's comment, these are questions about specific procedures, not suggestions for change of rule. No changes have been made to the proposed rule as a result of this comment.

COMMENT #3: Sarah Schappe commented, "19 CSR 100-1.060(4)(D)3. allows a certified copy of the prosecutor's file be accepted as proof of an applicant's arrest, prosecution or conviction for a non-violent marijuana offense. Have you spoken to the prosecutor's association about this? Generally, prosecutor's files are at least partially closed records as they contain work product and other documents that are not open records. Could you specify which documents you want (Charging document, declination of charges, etc.)? I don't think there is a legal problem necessarily with asking for this, but I think you will have people trying to get something that is impossible."
RESPONSE AND EXPLANATION OF CHANGE: What is now 19 CSR 100-1.060(4)(B)4. and subparagraphs have been revised to address this concern by revising what documentation is acceptable.

COMMENT #4: Sarah Schappe commented, "19 CSR 100-1.060(4)(F)1 requires a letter from a prosecutor saying the person lives in an zip code or census tract that qualifies. We discussed this a bit. I am concerned that no prosecutor can do this and you are making a rule that is impossible for people to comply with. I understand DHSS doesn't have this list currently either. Could you do something more general like – "Provide evidence that

their zip code or census tract has a historic rate of incarceration for marijuana-related offenses that is 50% higher than the rate for the state" and then let people provide whatever proof they want? If someone wants to commission a study, they can. If they can get something from the prosecutor or another reliable source, that would be fine too. If a comprehensive list is developed, the rule could be amended at a future date"
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.060(4)(F)1. has been removed. At the end of (4)(F), a new provision has been added that defines historic rate of incarceration and provides information about how people can demonstrate that their ZIP code or census tract qualifies. Additionally, a list of qualifying ZIP codes is included in the rule. Due to other changes, this section is now numbered (4)(B)6.

COMMENT #5: Sarah Schappe commented, "1.060(4)(G)1. and (H) asks for a certified letter from DESE indicating that the applicable school district was unaccredited. What compels DESE to write this letter? Is there a public record that would fulfill this requirement? There is a list of school districts that could be certified as a public record. https://dese.mo.gov/media/pdf/accreditation-classification-school-districts-0 Perhaps you could use that or request that someone get a certified copy of any record from DESE demonstrating the school was unaccredited?"
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.060(4)(G) and (H) have been revised to address this comment but also to allow for the potential for out-of-state applicants. Due to other changes, these sections are now numbered (4)(B)7. and 8.

COMMENT #6: Andrew Lammert suggested deleting "or otherwise inactive" from 19 CSR 100-1.060(1)(A)8.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.060(1)(A)8. has been revised to address this comment.

COMMENT #7: Andrew Lammert suggests changing the language in 19 CSR 100-1.060(3)(I) to, "For facilities that will be cultivating marijuana, whether the cultivation will be conducted in an indoor, outdoor, or greenhouse space; and if more than one of those spaces will be simultaneously utilized by a facility, the amount of Flowering Plant Canopy Space and/or plants dedicated to each indoor, outdoor or greenhouse space."
RESPONSE: 19 CSR 100-1.160 addresses cultivation requirements, including discussing cultivation practices. Additionally, the parenthetical reference to what is referred to as cultivation practice in 19 CSR 100-1.060(3)(I) clarifies what is meant in this section. No changes have been made to the proposed rule as a result of this comment.

COMMENT #8: Andrew Lammert suggests changing the word "filled" to "awarded" or "issued" in 19 CSR 100-1.060(6)(A)9. and 10.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.060(6)(A)9. and 10. have been revised in response to this comment.

COMMENT #9: Andrew Lammert suggests removing "or otherwise inactive" from 19 CSR 100-1.060(7)(C).
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.060(7)(C) has been revised in response to this comment.
COMMENT #10: Green Zone commented, "Page 40 part (3) of 19 CSR 100-1.060 Facility Applications and Selection Part G through L is unclear that all facility types are being addressed."
RESPONSE: Paragraph (3) indicates that the entire section pertains to applications for facility licenses or certifications, except for off-site storage. No changes have been made to the proposed rule as a result of this comment.

COMMENT #10: Andrew Lammert suggests changing the language in 19 CSR 100-1.060(3)(H) and (5)(A) to read, "Blueprints for the facility with all rooms clearly labeled, including purpose and square footage;"
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.060(3)(H) and (5)(A) have been revised in response to this comment in a manner consistent with other rules in this chapter.

COMMENT #11: Missouri Department of Health and Senior Services staff suggests replacing in 19 CSR 100-1.060(1)(A)5. the word "received" with the word "complete" and change the word "documents" to "documentation" for consistency purposes.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.060(1)(A)5. has been revised to reflect this change.

COMMENT #12: Missouri Department of Health and Senior Services staff suggests including in 19 CSR 100-1.060(1)(A)6. the word "complete" for consistency purposes.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.060(1)(A)6. has been revised to reflect this change.

COMMENT #13: Missouri Department of Health and Senior Services staff suggest for 19 CSR 100-1.060(3)(D) to add a requirement for all licenses to attest that they are not under substantially common control, ownership, or management as a testing facility; and for testing licensees to attest to the same. Previous language required testing facility applicants to list these commonalities in their application, but there was no reciprocal requirement for other facility types. Such common control, ownership, or management is prohibited under Article XIV, so these provisions were necessary to add to the application section.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.060(3) has been revised to include this change which has added a new subsection (D) and significantly changed subsection (E) (previously subsection (D)) in order to reflect this change.

COMMENT #14: Missouri Department of Health and Senior Services staff has suggested FOR 19 CSR 100-1.060(3)(G)3. that it is required that they provide a copy of the local government documents and a hyperlink to the local government documents, along with appropriate highlighting of the sections of the local regulations that apply.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.060(3)(G)3. has been revised to reflect this change, but due to other revisions, it is now paragraph (3)(H)3.

COMMENT #15: Missouri Department of Health and Senior Services staff has suggested for 19 CSR 100-1.060(4)(C) that we include that Summary of Benefits letter be included as appropriate verification.
RESPONSE AND EXPLANATION OF CHANGE: What is now 19 CSR 100-1.060(4)(B)3. and its subparagraphs have been revised to reflect this change and to add more options for what can be provided.

COMMENT #16: Missouri Department of Health and Senior Services staff has pointed out the missing word "of" in 19 CSR 100-1.060(4)(H)5.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.060(4)(H)5. was revised to include the word of.

COMMENT #17: Missouri Department of Health and Senior Services staff requested that 19 CSR 100-1.060(5) be modified to read similarly to how the change request requirements read.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.060(5)(C) has been added to read similarly to change requests.

COMMENT #18: Missouri Department of Health and Senior Services staff requested that the language in 19 CSR 100-1.060(5)(C) be changed to, "If the local government in which the off-site storage will be located has enacted applicable zoning restrictions, documentation from the local government with jurisdiction over the facility's location confirming that the proposed location complies with applicable zoning restrictions."
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.060(5)(C) was revised to reflect this change, but due to an added section, this is now numbered (5)(D).

COMMENT #19: Missouri Department of Health and Senior Services staff requested that 19 CSR 100-1.060(2)(C)2.B. be clarified regarding refunds.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.060(2)(C)2.B. was revised to reflect this change.

COMMENT #20: Missouri Department of Health and Senior Services staff requested that 19 CSR 100-1.060(4) be modified to clarify the Article XIV requirement that only one applicant can apply for and obtain a license.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.060(4) was modified to have a new (A) which reflects this suggestion. Such change has moved the prior language in paragraph (4) to (B), and all the paragraphs under that have moved in a level (A) became 1, (B) became 2, 1 became A, etc.

COMMENT #21: Missouri Department of Health and Senior Services suggested including in 19 CSR 100-1.060(6)(A)1. the words "entered into" before "the lottery" in the first sentence.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.060(6)(A)1 was modified to reflect this change.

COMMENT #22: Missouri Department of Health and Senior Services staff suggests including in 19 CSR 100-1.060(6)(A)3. that separate drawings will occur for each congressional district.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.060(6)(A)3. was modified to reflect this change.

COMMENT #23: Missouri Department of Health and Senior Services staff suggests changing "department-approved online format" in 19 CSR 100-1.060(1)(A)1. to add clarity.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.060(1)(A)1. was revised to clarify what was intended by the original language.

COMMENT #24: Missouri Department of Health and Senior Services staff suggests removing all references to the department website throughout the rules.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.060(2)(C)1. was revised to delete the website.

COMMENT #25: Missouri Department of Health and Senior Services staff suggests revising the first microbusiness eligibility criteria application requirements (pertaining to applicants claiming a net worth of less than $250,000 and low income) to provide clarity. Low income is only required at the time of the application, but net worth is required for 3 of the last 5 years. To clear up possible confusion regarding how net worth is calculated, the language needs to add further details. Additionally, upon further review, staff determined that tax returns are not always filed by low-income individuals, so they may not be able to be provided by an applicant who meets this criterion.
RESPONSE AND EXPLANATION OF CHANGE: What is now 19 CSR 100-1.060(4)(B)2. and its subparagraphs have been revised to reflect the changes requested by department staff.

COMMENT # 26: Missouri Department of Health and Senior Services staff suggests revising 19 CSR 100-1.060(4)(E) to clarify what must be provided to demonstrate that where the person resides is below the poverty level or has an unemployment rate fifty prcent (50%) higher than the state average.
RESPONSE AND EXPLANATION OF CHANGE: What is now 19 CSR 100-1.060(4)(B)5. and its subparagraphs have been revised consistent with these suggestions.

COMMENT #27: Missouri Department of Health and Senior Services staff suggests revising 19 CSR 100-1.060(5) change the term "off-site warehouses" to "warehouses" and define "warehouse" in 19 CSR 100-1.060 to clarify that it means off-site storage.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.060(5), (5)(B), (5)(D), and (5)(E) have been changed to reflect the new terminology.

COMMENT #28: Missouri Department of Health and Senior Services staff suggests revising 19 CSR 100-1.060(5) to add clarification that warehouse certificates expire at the same time as the underlying facility license.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.060(5)(G) has been added to reflect this suggestion.

COMMENT #29: Missouri Department of Health and Senior Services staff suggests revising 19 CSR 100-1.060(6)(A)2. to provide clarity about what is meant by "eligible applications."
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.060(6)(A)2. has been changed to remove the term "eligible" and to add a qualifier after the word "applications."

COMMENT #30: Missouri Department of Health and Senior Services staff suggests revising 19 CSR 100-1.060(6)(A)4. to remove redundant language regarding when the department will review an application.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.060(6)(A)4. has been revised as suggested.

COMMENT #31: Missouri Department of Health and Senior Services staff suggests revising 19 CSR 100-1.060(6)(A)6. to move this provision to a subparagraph under (6)(A)4.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.060(6)(A)4.A. has been added to address this concern.

COMMENT #32: Missouri Department of Health and Senior Services staff suggests revising 19 CSR 100-1.060(6)(A)5. to add the word "application" before "review period" for clarification, and to change the word "granted" to "issued" for consistency.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.060(6)(A)5. has been revised as suggested.

COMMENT #33: Missouri Department of Health and Senior Services staff suggests revising 19 CSR 100-1.060(6)(A)7.C. to cite to Article XIV to make the language read more clearly.
RESPONSE AND EXPLANATION OF CHANGE: What is now 19 CSR 100-1.060(6)(A)6.C. due to other revisions has been revised as suggested.

COMMENT #34: Missouri Department of Health and Senior Services staff suggests revising 19 CSR 100-1.060(6)(A) to add language that when an entity has ownership in more than one microbusiness applicant, all such applications will be denied.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.060(6)(A)6.F. has been added to address this comment.

COMMENT #35: Missouri Department of Health and Senior Services staff suggests moving 19 CSR 100-1.060(6)(A)8. to a new subparagraph directly under (6).
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.060(6)(A)8. has been moved to (6)(D) to address this comment.

COMMENT #36: Missouri Department of Health and Senior Services staff suggests adding clarification to 19 CSR 100-1.060(6)(A)10. regarding what happens if an applicant is not selected by lottery.
RESPONSE AND EXPLANATION OF CHANGE: What is now 19 CSR 100-1.060(6)(A)8. has been revised to add clarity.

COMMENT #37: Missouri Department of Health and Senior Services staff suggests revising "department-approved online format" for clarity in 19 CSR 100-1.060(7).
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.060(7) has been revised to replace "department-approved online format" with more informative language.

COMMENT #38: Missouri Department of Health and Senior Services staff suggests revising 19 CSR 100-1.060(7)(A) to remove the reference to the department's website, consistent with changes made throughout the rules.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.060(7)(A) has been revised to remove the web address.

COMMENT #39: Missouri Department of Health and Senior Services staff suggests revising 19 CSR 100-1.060(2)(C)2.A. to include a cutoff for refund requests six (6) months after the date of denial.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.060(2)(C)2A has been revised to add a six- (6-) month cutoff for refund requests.

COMMENT #40: Missouri Department of Health and Senior Services staff suggests revising 19 CSR 100-1.060(6)(D) to explain what happens if an applicant who is issued a license does not accept in forty-eight (48) hours.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.060(6)(D) was revised to add a sentence about deactivating a license that hasn't been accepted within forty-eight (48) hours.

COMMENT #41: Missouri Department of Health and Senior Services staff suggests revising 19 CSR 100-1.060(6)(B) to include licenses and certifications without a limit on the number to be issued, to account for transportation certifications and others that otherwise would not have been accounted for. Staff also suggests adding denial language as was included in (6)(A)6.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.060(6)(B) to add language accounting for licenses and certifications without a limit on the number to be issued and adding a reference to (6)(A)6.'s denial language to clarify how applications not meeting minimum criteria can be denied.

COMMENT #42: Missouri Department of Health and Senior Services staff commented that the list of ZIP codes included in the original final order in 19 CSR 100-1.060(4)(B)6. was incorrect and needs to be updated.
RESPONSE AND EXPLANATION OF CHANGE: The list of ZIP codes included in 19 CSR 100-1.060(4)(B)6. was updated using recent data obtained by the Department's Chief Equity Officer.

19 CSR 100-1.060 Facility Applications and Selection

(1) Conversion from a medical facility license to a comprehensive facility license.

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

1. Conversion requests must be submitted in a department-provided, web-based application system.

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

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

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

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

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

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

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

(2) Facility application process.

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

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

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

A. Requests for a refund will be accepted beginning thirty-one (31) days after the date of the denial but no later than six (6) months after the date of the denial.

B. The application fee will be refunded if the department determines the microbusiness facility applicant met the criteria to apply for a microbusiness facility license and the applicant has no pending or future legal actions related to the denial of the application. Issuance of a refund is not a determination from the department that the applicant is qualified for licensure or is entitled to a license in future applications.

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

(D) For all entities licensed or certified or applying for licensure or certification in Missouri to cultivate, manufacture,

or dispense marijuana product, an attestation that the entity is not and will not be under substantially common control, ownership, or management as a testing facility;

(E) For a testing facility application, an attestation that the entity is not and will not be under substantially common control, ownership, or management as a cultivation facility licensee, manufacturing facility licensee, or dispensary facility licensee;

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

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

(H) Proposed address of the facility and –

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

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

3. A copy of, and a hyperlink to, all local government requirements for facility location, such as zoning requirements, if applicable. Applicable sections shall be highlighted in the copy of the regulations;

(I) Proposed blueprints that outline the entire facility and feature all rooms and areas clearly labeled, including purpose and square footage, camera locations, limited access areas, and access permissions;

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

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

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

(M) All applicable fees; and

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

(4) In addition to the application requirements in section (3) above, microbusiness facility applicants must also provide the following:

(A) All entities, which includes individuals, with an ownership interest in the applicant entity, indicating ownership percentage, and a visual representation of the facility's ownership structure; and

(B) Documents demonstrating eligibility for microbusiness facility ownership as follows:

1. A valid (not expired) government-issued photo ID; and

2. For applicants claiming a net worth of less than two hundred fifty thousand dollars ($250,000) and low income –

A. Sworn financial statements demonstrating a net worth at the time of the application of less than two hundred fifty thousand dollars ($250,000). This includes all marital property, unless applicant provides evidence sufficient to demonstrate that property is not jointly owned; and

B. Documentation establishing that the applicant's gross household income was below two hundred and fifty percent (250%) of the federal poverty guidelines issued by the U.S. Department of Health and Human Services for at least three (3) of the last ten (10) years. Income for each year claimed may be established by tax returns, paycheck stubs summarizing the full income from the source for the year, W-2s, evidence of job loss, or other documentation sufficient to demonstrate gross income below two hundred and fifty percent (250%) of the federal poverty level during the applicable year.

3. For applicants claiming a service-connected disability:

A. A copy of the front of the applicant's current veteran health identification card demonstrating a service-connected disability; or

B. A copy of the applicant's VA benefit summary letter, dated within six (6) months before the date of the application, demonstrating a service-connected disability; or

C. A copy of the applicant's VA award letter, dated within six (6) months before the date of the application, demonstrating a service-connected disability; or

D. If none of these proofs are available, some other current evidence of service-connected disability which the department determines is sufficient proof of service-connected disability.

4. For applicants claiming an arrest, prosecution, or conviction for a non-violent marijuana offense –

A. A copy of the relevant arrest record; or

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

C. A copy of the relevant arrest record and a letter from the prosecutor's office indicating the charge filed; or

D. A copy of the relevant arrest record and a certified copy of the judgment of conviction; or

E. A copy of the relevant arrest record and a certificate of expungement from a court; or

F. If none of these proofs are available, some other evidence of the arrest, prosecution, or conviction which the department determines is sufficient proof of arrest, prosecution, or conviction of a non-violent marijuana offense; and

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

(I) A valid (not expired), government-issued photo ID of the parent, guardian, or spouse; and

(II) Proof of relationship –

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

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

(c) A certified copy of the marriage certificate; or

(d) If none of these proofs are available, some other evidence of relationship which the department determines is sufficient proof of relationship;

5. For applicants claiming residency in a ZIP code or census tract area where either thirty percent (30%) or more of the population lives below the federal poverty level or the rate of unemployment is fifty percent (50%) higher than the state average, the application must include –

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

(I) The name of the applicant;

(II) The dates of service;

(III) The service address; and

(IV) The billing address; or

B. A copy of a current residential lease, which must include the name of the applicant, the full address, the date the lease went in to effect and expires, and an affidavit from

the applicant stating the applicant resides at that address; or

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

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

E. Other documentation sufficient to demonstrate residency; and

F. Documentation or screenshot from the most recent five- (5-) year estimates published by the American Community Survey of the U.S. Census Bureau, for the department to verify the claimed resident ZIP code tabulation area or census tract contains the qualifying poverty or unemployment rate.

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

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

(I) The name of the applicant;

(II) The dates of service;

(III) The service address; and

(IV) The billing address; or

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

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

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

A list of qualifying ZIP codes in Missouri, using data obtained from the Missouri State Highway Patrol, is included herein. For individuals residing in a different state, the application must include data from a comparable state authority sufficient to demonstrate the claimed resident ZIP code or census tract contains the qualifying incarceration rate for marijuana offenses.

Zip Codes in Missouri with Qualifying Historic Rate of Incarceration				
63050	63555	64469	65103	65483
63065	63556	64473	65104	65532
63066	63565	64477	65105	65536
63084	63633	64482	65106	65560
63101	63640	64601	65107	65565
63105	63645	64633	65108	65582
63150	63651	64640	65111	65607
63169	63664	64653	65201	65613
63188	63670	64683	65205	65622
63195	63736	64701	65212	65625
63199	63755	64759	65216	65653
63301	63779	64766	65233	65656
63302	63834	64772	65248	65661
63334	63857	64776	65259	65667
63361	63869	64856	65261	65668
63379	64028	65018	65265	65712
63380	64067	65020	65275	65721
63383	64068	65036	65299	65785
63435	64079	65041	65301	65801
63457	64085	65051	65302	65802
63459	64106	65055	65340	65805
63466	64184	65082	65401	
63469	64187	65084	65402	
63548	64198	65101	65409	
63552	64424	65102	65466	

7. For applicants claiming graduation from a school district that was unaccredited, or had a similar successor designation, at the time of graduation:

A. Documentation from the school district or a state accrediting authority sufficient for the department to verify that the school district was unaccredited at the time of graduation; and

B. An official copy of the applicant's high school diploma; or

C. A letter from the applicant's high school demonstrating that the applicant graduated from the school and the year the applicant graduated.

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

A. Documentation from the school district or a state accrediting authority sufficient for the department to verify that the school district was unaccredited during at least one (1) of the three (3) years the applicant resided in the school district; and

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

(I) The name of the applicant;

(II) The dates of service;

(III) The service address; and

(IV) The billing address; or

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

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

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

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

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

(A) Proposed blueprints for the facility that outline the entire facility and feature all rooms and areas clearly labeled, including purpose and square footage, camera locations, limited access areas, and access permissions;

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

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

(D) If the local government in which the warehouse will be located has enacted applicable zoning restrictions, documentation from the local government with jurisdiction over the offsite storage location confirming that the proposed location complies with applicable zoning restrictions;

(E) An attestation that the warehouse will comply with all other rules applicable to the facility for which the warehouse is being established; and

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

(G) Approved warehouse certificates shall have the same expiration and renewal date as the facility for which the warehouse is being established.

(6) Application approval and denial process.

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

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

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

3. Identifiers will be randomly drawn and listed in the order drawn. If licenses are issued by congressional district, separate drawings will occur for each congressional district.

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

A. Applicants are responsible for submitting a complete and accurate application as set out in this chapter. However, the department may request an applicant to provide additional information or documents needed to determine eligibility for a license by sending the request to the email address of the designated contact associated with the application. If requested, the applicant will have three (3) business days from the date the email is sent to provide the requested information or documents.

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

6. An application will be denied if –

A. The application is not complete;

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

C. Awarding a license would result in an entity being an owner in more licenses than permitted by Article XIV Section 2.3(9-11);

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

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

F. An entity, which includes an individual, holds an ownership interest in more than one (1) microbusiness applicant in the same microbusiness application period, all microbusiness applications where the entity holds an ownership interest will be denied;

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

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

8. Once all available licenses or certifications are issued, the remaining applications entered into the lottery for that application time period will be denied for failure to be selected in the lottery.

(B) In cases where fewer applications are received in an application time period than there are available licenses or certifications, or for applications for licenses and certifications without a limit on the number to be issued, all complete applications meeting the license eligibility requirements in this chapter and Article XIV will be granted. Applications will be denied if subject to denial in paragraph (6)(A)6.

(D) All applicants that are issued a license or certification will be given forty-eight (48) hours to confirm they accept the license or certification. Failure to accept the license or certification in this time frame may result in deactivation of the license or certification, and the department may then offer a license or certification to the next eligible applicant in the order drawn.

(7) Renewals. Renewal requests must be submitted in a department-provided, web-based application system at least thirty (30) days, but no sooner than ninety (90) days, prior to expiration.

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

TITLE 19 – DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 100 – Division of Cannabis Regulation
Chapter 1 – Marijuana

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 1.3.(1)(b), 1.3.(2), 2.4(1)(b), and 2.4(4) of Article XIV, Mo. Const., the department adopts a rule as follows:

19 CSR 100-1.070 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on March 1, 2023 (48 MoReg 488-490). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Department of Health and Senior Services received seventeen (17) comments on the proposed rule.

COMMENT #1: J. B. Waggoner commented, "The majority of the rule changes are being presented in the context of the government being compelled to act under emergency rule due to the adoption of a constitutional amendment. The fact remains that much more than what is required by said amendment is being lumped into that action – in other words, under false pretense. Every one of the draft rules being prepared for submission under the emergency rule process is full items that need further review, modification, and in many cases, full redaction."
RESPONSE: This comment does not suggest any changes to the proposed rule. No changes have been made to the proposed rule as a result of this comment.

COMMENT #2: Gabe Jertberg suggests that the department remove section 19 CSR 100-1.070(2)(H)3. completely but does not provide a reason as to why.
RESPONSE: This comment does not provide an explanation as to why this provision should be removed. No changes have been made to the proposed rule as a result of this comment.

COMMENT #3: Jennifer Rhoads, Gini Fite, and David Mason thanked the department for requiring facility agents to be at least twenty-one (21) years old.
RESPONSE: This comment does not propose a change to the rules. No changes have been made to the proposed rule as a result of this comment.

COMMENT #4: Andrew Lammert suggests that 19 CSR 100-1.070(1)(H) be deleted in its entirety because if there is no compliance violation, this provision would be unduly burdensome and unconstitutional.
RESPONSE: This provision is included in rule to require licensees to notify the department when operations or application reviews are significantly impacted so that the department can make a determination as to whether it needs to take action to promote general health, safety, and security. No changes have been made as a result of this comment.

COMMENT #5: Missouri Department of Health and Senior Services staff suggested adding to 19 CSR 100-1.070(1)(H) "or the department review of an application" and "or it may deny the application" to this section to make it clearer what the intent behind this rule is.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.070(1)(H) was revised to reflect this change.

COMMENT #6: Andrew Lammert suggests that 19 CSR 100-1.070(1)(E) include the language "within a facility type" be included within this definition.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.070(1)(E) has been revised to address this comment.

COMMENT #7: Missouri Department of Health and Senior Services staff suggested based upon public comments adding the word "licenses" and "as described in Article XIV Section 2.3(9-11)" to 19 CSR 100-1.070(1)(E) for clarity.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.070(1)(E) has been revised to address this comment.

COMMENT #8: David Bonenberger states that 19 CSR 100-1.070(1)(E) is silent with regard to Management Service Agreements (MSA) or other like means of a third party managing the operations of a facility that is licensed by another entity. If this is not addressed and regulated there would be no way to prevent an entity (in state or out of state) from gaining operational control of a majority of licensed facilities within the state, thereby achieving a monopoly of control. The Sherman Antitrust Act is in place to prevent companies from garnering power as monopolies.
RESPONSE: Article XIV does not permit the department to prohibit entities from having too much control, but in such circumstances, the department can look at the totality of the evidence to determine if an entity is an owner. No changes have been made to the proposed rules as a result of this comment.

COMMENT #9: Philip Sarff states for 19 CSR 100-1.070(2)(B) In general, this age requirement should be set at eighteen (18), but this is especially the case for testing facilities where strict inventory guidelines are kept on the minimal amounts of product received. In a testing facility, general facility and procedural methods are handled effectively and efficiently by a general technician with a high school diploma (or equivalent). This rule thus shrinks the employment pool for facilities, which are often in rule areas and creates an undue hardship that is seen in higher costs to operate a facility and thus higher costs to patients. Further, this age requirement also prevents educating the next generation, such as college internships. A more appropriate statement for this rule would be:
"Individuals that are at least eighteen (18) years of age or older may be a facility agent if they have the necessary education, knowledge, and training to fit the needs of the job position or are working to complete their education."
RESPONSE: The department has considered feedback on this issue since before the rules were published for comment. The benefit of keeping the age consistent, at twenty-one (21), outweigh the benefits of lowering to eighteen (18). No changes have been made to the proposed rule as a result of this comment.

COMMENT #10: JB Waggoner states for 19 CSR 100-1.070(2)(B) that it should be tied to standard employment law. This eliminates the ability to get young people working in the industry – college-aged interns, included. Perhaps moving this

to eighteen (18) would solve the problem. In the case of the Testing Facility, the department should look for guidance in DEA/BNDD rules.
RESPONSE: The department has considered feedback on this issue since before the rules were published for comment. The benefit of keeping the age consistent, at twenty-one (21), outweigh the benefits of lowering to eighteen (18). No changes have been made to the proposed rule as a result of this comment.

COMMENT #11: Andrew Lammert suggests removing from 19 CSR 100-1.070(2)(J)2. "or that tends to deceive or create a misleading impression."
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.070(2)(J)2. has been revised to address this comment.

COMMENT #12: Gabe Jertberg suggests adding a new paragraph (2)(J)12. that would read, "The department shall promulgate and maintain a directory of Agent IDs that are currently under investigation or have had their Agent ID cards revoked for any of the reasons outlined in this subsection and shall make this directory available to licensees for review." as having access to a list of Agents who are either under investigation or have received enforcement action by the department for allegations relating to marijuana misuse would assist licensees by allowing them to screen applicants against a centralized database. This information would allow licensees to make an informed decision of whether to hire an applicant and would allow them to more effectively evaluate any risk that said applicant would introduce into the operation.
RESPONSE: This comment is well taken as a general suggestion for tracking, but this is not something that is necessary to be included in rule. No changes have been made to the proposed rule as a result of this comment.

COMMENT #13: JB Waggoner suggests that 19 CSR 100-1.070(2)(H)2. be tied to standard employment law. This eliminates the ability to get young people working in the industry – college-aged interns, included. Perhaps moving this to eighteen (18) would solve the problem. In the case of the Testing Facility, the department should look for guidance in DEA/BNDD rules.
RESPONSE: The department has considered feedback on this issue since before the rules were published for comment. The benefit of keeping the age consistent, at twenty-one (21), outweigh the benefits of lowering to eighteen (18). No changes have been made to the proposed rule as a result of this comment.

COMMENT #14: Missouri Department of Health and Senior Services staff suggested modifying 19 CSR 100-1.070(2)(A) to read "All employees" and to include "or certified" for facilities for clarification purposes.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.070(2)(A) was revised to reflect this comment.

COMMENT #15: Missouri Department of Health and Senior Services staff suggested 19 CSR 100-1.070(2)(A)1. suggested changing the language in this section to make it clear who was being considered a contractor.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.070(2)(A)1. was revised to reflect this comment.

COMMENT #16: Missouri Department of Health and Senior Services staff suggested 19 CSR 100-1.070(2)(J)3. remove "but not limited to," as "including" is sufficient.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.070(2)(J)3. was revised to reflect this suggestion.

COMMENT #17: Missouri Department of Health and Senior Services staff suggested 19 CSR 100-1.070(2)(E) should be revised to change "applications" to "applicants," since individuals have criminal background checks, and applications do not. Staff also suggested changing "disqualifying criminal offenses" to "disqualifying felony offenses" to match constitutional language and the language used throughout the rules.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.070(2)(E) was revised as proposed to correct the incorrect references.

19 CSR 100-1.070 Facility Ownership and Employment

(1) Facility ownership.

(E) An entity, which includes an individual, may not be an owner in more than ten percent (10%) of the total number of comprehensive and medical licenses, within a facility type, as described in Article XIV Section 2.3(9-11).

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

(2) Facility employment.

(A) All employees, contractors, owners having access to a medical or marijuana facility, and volunteers of a medical or marijuana facility must obtain an agent identification card from the department before beginning employment, work, or volunteer services at a licensed or certified facility.

1. An individual performing maintenance work (such as plumbing) or other similar work not related to testing, transporting, growing, manufacturing, or dispensing marijuana product at any licensed or certified facility for no more than fourteen (14) days in a calendar year, is not required to have an agent identification card to perform such work. The licensee is responsible for supervising such individuals while they are in the facility.

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

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

1. Submission of an incomplete application;

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

3. Fraudulent use of the agent identification card, including, tampering, falsifying, altering, modifying, duplicating, or allowing another person to use, tamper, falsify, alter, modify, or duplicate an agent identification card;

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

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

6. Failing to comply with the state-wide track and trace system requirements;

7. Violation of any requirement in this chapter;

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

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

10. Refusal to cooperate with a department investigation; or

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

TITLE 19 – DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 100 – Division of Cannabis Regulation
Chapter 1 – Marijuana

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 1.3.(1)(b), 1.3.(2), 2.4(1)(b), and 2.4(4) of Article XIV, Mo. Const., the department adopts a rule as follows:

19 CSR 100-1.080 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on March 1, 2023 (48 MoReg 491). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Department of Health and Senior Services received five (5) comments on the proposed rule.

COMMENT #1: Missouri Department of Health and Senior Services staff recommended for 19 CSR 100-1.080(1) that "contract employees" be changed to say "contractors" for consistency, and that "and volunteers" be included.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.080(1) was revised to reflect this comment.

COMMENT #2: Andrew Lammert suggested that 19 CSR 100-1.080(1)(D) be changed to add, "to the employee's duties" for consistency purposes.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.080(1)(D) was revised to reflect this comment.

COMMENT #3: Jennifer Rhoads, Gini Fite, and David Mason requested that the department consider adding to Proposed Rule (1) (H) 1.-3. language that ensures employees responsible for assisting customers are trained concerning the employees liability regarding selling to minors, techniques to verify ID validity, proper actions regarding false identification, and how to refuse sale. This would make requirements regarding mandatory employee training more clear and increase use of effective evidence-based youth use and misuse strategies. Employees over the age of twenty-one (21) who are responsible for sale of marijuana to consumers need to understand that sales of marijuana to persons under twenty-one (21) is still a felony and not protected under Article XIV's "Personal Use of Marijuana" civil penalty structure. This liability would be on the employee themselves and not on the facility necessarily. Mandatory training should make that clear to all employees.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.080(1)(H)4. has been added to address these concerns in part. As a result of adding this provision, (1)(H)2. was revised to remove "and," and (1)(H)3. was revised to add "and."

COMMENT #4: Andrew Lammert suggest removing the current language in 19 CSR 100-1.080(2) to, "All training shall commence within one (1) week of an individual beginning work or of a change in standard operating procedures".
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.080(2) was revised to compromise to allow employees to complete training within one (1) week of beginning work.

COMMENT #5: Missouri Department of Health and Senior Services staff recommended that 19 CSR 100-1.080(1) and (3) be revised to remove the word "facility" before "licensees" for consistency throughout the rules.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.080(1) and (3) were revised to reflect this suggestion.

9 CSR 100-1.080 Facility Employee Training

(1) Licensees must ensure all facility employees, contractors, and volunteers, are trained in at least the following and must maintain records of employee training for at least five (5) years:

(D) The safety and sanitation procedures of the facility, as applicable to the employee's duties;

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

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

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

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

4. Procedures for verifying a purchaser of marijuana product is of lawful age pursuant to this chapter.

(2) All required employee training shall be completed no later than one (1) week after an individual begins work at a licensed facility or performs activities covered by a new or modified SOP.

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

TITLE 19 – DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 100 – Division of Cannabis Regulation
Chapter 1 – Marijuana

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 1.3.(1)(b), 1.3.(2), 2.4(1)(b), and 2.4(4) of Article XIV, Mo. Const., the department adopts a rule as follows:

19 CSR 100-1.090 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on March 1, 2023 (48 MoReg 491-493). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Department of Health and Senior Services received thirty-seven (37) comments on the proposed rule.

COMMENT #1: Leah Swindler commented, "I would like to submit suggestions that microbusiness licenses be allowed modified requirements related to facility structure/security/camera and alarm systems. These features are some of the most expensive aspects of starting a cannabis business and the individuals who will qualify for microbusiness licenses may not be able to afford to purchase these systems to the full capacity as currently required by DHSS.
Has DHSS performed a small business economic statement as required by 4 CSR 262-1.010 and is this publicly available?"
RESPONSE: The security standards set forth in this rule are necessary to protect the product and the individuals working within a facility. The remainder of Ms. Swindler's comment is a question that does not make any suggestions for changes to the rule. No changes have been made to the proposed rule based on this comment.

COMMENT #2: Missouri Department of Health and Senior Services staff suggested amending 19 CSR 100-1.090(3) to include the word "facilities" behind "multi-building cultivation" and adding a comma after it for clarity purposes.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.090(3) was revised to address this comment.

COMMENT #3: Missouri Department of Health and Senior Services staff suggested fixing the spacing in 19 CSR 100-1.090(5) which had an extra space between malfunction and of.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.090(5) was revised to fix this spacing issue.

COMMENT #4: JB Waggoner states that most of the rule changes are being presented in the context of the government being compelled to act under emergency rule due to the adoption of a constitutional amendment. The fact remains that much more than what is required by said amendment is being lumped into that action – in other words, under false pretense. Every one of the draft rules being prepared for submission under the emergency rule process is full items that need further review, modification, and in many cases, full redaction.
RESPONSE: This comment does not request a specific rule change. No changes have been made to the proposed rule as a result of this comment.

COMMENT #5: JB Waggoner states that all of 19 CSR 100-1.090 requires rethinking, especially when applied to analytical laboratories. I again encourage the department to look to DEA/BNDD rules related to the handling of regulated materials. These requirements go well beyond any standard practice that has been working for the industry for decades. As well, we should let the police be the police.
RESPONSE: This comment is general in nature, suggesting that the entire rule needs to be revised. The comment does not make any specific suggestions for changes that can be considered. No changes have been made to the proposed rule as a result.

COMMENT #6: In response to the public and private costs included in the rule, JB Waggoner conveyed disbelief.
RESPONSE: 19 CSR 100-1.100 contains the majority of department and private costs, as this is the rule that requires licensees to comply with state and local rules. No changes have been made to the proposed rule as a result of this comment.

COMMENT #7: David Bonenberger states that for 19 CSR 100-1.090(1)(C) the department should only have access to live video feed. This is not spelled out and is much too broad as written. Also, who within the department has access to our video monitoring? A list of authorized department regulators that will have access to video monitoring has never been published. It is vital to facility security for operators to know who is authorized to view their facility via remote access. Vital confidential information and specifications are available to the viewer and it is essential that no breach occur via access to this information.
RESPONSE: This is industry standard and assists in investigations. A list of individuals with access to the videos would be inappropriate for inclusion in rule. No changes have been made to the proposed rule as a result of this comment.

COMMENT #8: Andrew Mullins suggests that the department remove 19 CSR 100-1.090(1)(C)1. "A Retail Marijuana Store and its employees are prohibited from Transferring more than one ounce of Retail Marijuana flower or its equivalent in Retail Marijuana Concentrate or Retail Marijuana Product to a consumer in a single transaction. A Retail Marijuana Store may also Transfer up to six (6) seeds in addition to the one ounce of Retail Marijuana flower or its equivalent in Retail Marijuana Concentrate or Retail Marijuana Product to a consumer in a single transaction. A single transaction includes multiple Transfers to the same consumer during the same business day where the Retail Marijuana Store employee knows or reasonably should know that such Transfer would result in that consumer possessing more than one ounce of marijuana. In determining the imposition of any penalty for violation of this Rule 6-110(C), the State Licensing Authority will consider any mitigating and aggravating factors set forth in Rule 8-235(C).
The regulatory burden in Missouri caused by marijuana facility electronic video monitoring system requirements is already heavy, and particularly so for cultivation facility licensees. The coverage required by 19 CSR 100-1.090(1)(C)(3) (entry and exit points, windows, vaults, safes, perimeter of the facility, and all marijuana product from at least two angles where it is cultivated, manufactured, sampled for testing, stored, weighed, packaged, processed, rendered unusable, disposed of, or loaded for transport) by itself means a standard indoor cultivation with only one cultivation license must install, maintain, operate, and monitor approximately 100 cameras, and in some cases, many more than that.
Cameras are just the beginning. Other requirements (HD resolution, high frame rate, infrared capability, 60 days of storage, 60 minutes of operation without power, https remote access, encryption) mean a cultivator must also install and maintain servers, batteries, generators, software, licensing, and network infrastructure, all oversized to handle abnormal capacity, plus giant HVAC units to keep it all cool. Just the initial cost of such a system exceeds half a million dollars.
Though it would not require any additional cameras, making cultivators record and store "dark rooms" would mean tripling the capacity of these systems, thereby increasing the cost by hundreds of thousands of dollars. And that substantially increased cost would be for no real gain.
The reasoning behind the proposed ban on motion activated video storage appears to be the fear that a motion activated video recording system is somehow inherently unreliable. But that is not the case at all. These systems are always on and watching. They just do not store video of empty rooms. Motion activated video storage systems are standard in almost every industry with high security needs, including banking and finance, because there is simply no reason to store gigabytes of video with nothing on it.
It is also not the case that these systems are easier to defeat. Again, motion activated video storage systems are always on and watching. So they record anyone attempting to tamper

with a camera. And each camera will report if it loses power (as required by 19 CSR 100-1.090(1)(C)(9)).
Of course, these systems are not impenetrable. But a motion activated system has no more vulnerabilities than any other. For instance, no system can record video from a camera that has lost power or is otherwise incapacitated because that video is never captured in the first place.
Thus, imposing a ban on motion activated video storage would only raise costs for licensed operators, which would necessarily be passed on to consumers, for no actual benefit to anyone other than the black market, which always gains from higher prices.
To ensure competent camera motion functionality, DCR may ensure camera sensitivity is set appropriately and/or require an inspection of camera motion and/or sensitivity settings."
RESPONSE: This section is necessary to ensure that safety and security of marijuana product. No changes have been made to the proposed rule as a result of this comment.

COMMENT #9: Alissa Farquhar requests that 19 CSR 100-1.090(1)(C)1. allow for the use of motion detection technology. "The use of motion detection technology is a very common, established, and reliable method to balance video storage requirement of security cameras. By NOT using motion detection technology, video storage requirements will increase between 100% - 500%. Below is an example of motion detection in one of our busiest rooms at our facility. At best, we would incur a 100% increase in storage needs. For rooms with much less motion traffic, the storage needs could increase by a much larger percentage."
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.090(1)(C)1. has been revised to address this comment.

COMMENT #10: Philip Sarff requests that 19 CSR 100-1.090(1)(C)1. allow for the use of motion detection technology. Motion detectors are standard monitoring techniques used in multiple industries. I could concede using continuous monitoring of perimeter, but motion detection should then be allowed in interior areas. This practice thus helps reduce costs for data storage for information that is not necessary.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.090(1)(C)1. has been revised to address this comment.

COMMENT #11: JB Waggoner states with regards to 19 CSR 100-1.090(1)(C)1. that motion detectors are standard monitoring technique for all facilities – have been for decades. This should be redacted.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.090(1)(C)1. has been revised to address this comment.

COMMENT #12: JB Waggoner questions 19 CSR 100-1.090(1)(C)2. and why the department needs to approve everything. If it functions, there should be no comment.
RESPONSE: This provision ensure that the department is able to access and view the security camera footage. No changes have been made as a result of this comment.

COMMENT #13: Adolphus Busch requests that the department clarify what it means by "any area where a seed to sale system or statewide track and trace system are accessed" as anyone can access the Seed To Sale System or a Statewide Track and Trace System from their laptop, desktop computer, or tablet anywhere in the world with wireless internet.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.090(1)(C)3.E. has been revised to add clarity to address this comment.

COMMENT #14: Andrew Mullins points out a spelling mistake of premises in 19 CSR 100-1.090(1)(C)3.B.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.090(1)(C)3.D. has been revised to address this comment.

COMMENT #15: Philip Sarff requests that the department make it clear that the safes and vaults which are being discussed in 19 CSR 100-1.090(1)(C)3.D. is with regards to marijuana safes or vaults. There are other safes that may be in use in a facility, please denote as "all vaults or safes where product is stored."
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.090(1)(C)3.D. has been revised to address this comment.

COMMENT #16: JB Waggoner requests the department make it clear what safes are being referenced in 19 CSR 100-1.090(1)(C)3.D.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.090(1)(C)3.D. has been revised to address this comment.

COMMENT #17: Andrew Lammert requests that DCR remove the language in 19 CSR 100-1.090(1)(C)3.E. that states, ""Any area where a seed to sale system or the statewide track and trace system are accessed" due to METRC being able to be accessed from any location where there is a computer or cell phone and that each METRC user has a unique login which will track every action of the user.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.090(1)(C)3.E. was not deleted but was revised to address the concerns in this comment.

COMMENT #18: Alissa Farquhar brings up issues with 19 CSR 100-1.090(1)(C)3.E. with regards to the department is wanting to verify that the person logging into METRC is who they say they are and for no other sole purpose, requiring dual-factor authentication, such as a text or email of a code to be entered once you provide your password.
Requiring a camera everywhere that seed to sale system or the state-wide track and trace system is accessed creates undue burden for someone that is working off-site, or that is traveling that may need to respond to an emergency.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.090(1)(C)3.E. was revised to address the concerns in this comment regarding the issue of cameras being anywhere that access to METRC is done.

COMMENT #19: Gabe Jertberg requests 19 CSR 100-1.090(1)(C)3.E. be deleted in its entirety as mandating state-accessible security cameras wherever a particular website may be accessed is unnecessary micromanagement of licensees. Were this to be implemented, it would essentially mean that any manager who accesses METRC from home for legitimate business reasons is breaking state law – the department has neither the authority nor the bandwidth to effectively enforce this regulation, and therefore, it should be removed.
There are numerous occasions when facility staff may be required to access METRC remotely without moving or transferring product, such as a manager reviewing inventory audits after-hours or while working remotely from home, providing technical assistance to a staff member on a weekend, or sales staff confirming the amount of a particular product in vault inventory.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.090(1)(C)3.E. was not deleted but was revised to address the concerns in this comment.

COMMENT #20: Mr. Sarff requests that the department remove 19 CSR 100-1.090(1)(C)3.E. in its entirety as these systems have no interaction with material so do not pose a security risk. Especially for test facilities, science does not happen at a given time, as analyses can end at any time during the day depending on multiple variables. To meet sponsor needs and

the unnecessary and arbitrarily set seven- (7-) day turnaround time current in the draft testing facility rules (which should be removed as per comments made in that draft rule), data analysis, review, and upload can happen at any time during the day and at any location with secure access to the facilities network. The ability to work from offsite is also important for those of us that live sizable distances from the facilities. Adapting this statement adds additional unnecessary stress that will affect mental health and turnover of staff, slows product to the market, potential risk to data quality, and could lead to additional variance requests that the department will have to review should the seven- (7-) day turnaround time remain in effect.
I will also add that this is a precedence that I know of no other industry or state that has this rule.
Finally, this limits the ability to access the transportation hub of METRC, which thus affects a transporters ability to meet those rules. In other words, this statement will create conflict between the two (2) rules.
For all of these reasons, this statement must be removed.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.090(1)(C)3.E. was not deleted but was revised to address the concerns in this comment.

COMMENT #21: JB Waggoner requests 19 CSR 100-1.090(1)(C)3.E. be redacted. Due to the odd hours of work, partially caused by the unnecessary turn-around time rule (no other licensee must produce their work in a regulated amount of time, by the way), lab personnel check instruments and upload data to the system remotely. Accessing the transportation hub is another complication here. I guess the rule will be to not access it unless you are on someone's camera. But, that data on my employee will not be stored on the lab's system when they are on the road.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.090(1)(C)3.E. was not deleted but was revised to address the concerns in this comment.

COMMENT #22: Mr. Mullins suggests striking 19 CSR 100-1.090(1)(C)3.E.
Proposed rule requirement to provide video camera coverage of any area where a seed to sale system or track and trace system are accessed with no discernable benefit
Seed-to-sale applications, particularly METRC, are by necessity accessed from many different spots in a state licensed marijuana facility throughout the day and night, not only for data entry but also to gather and view information and analytics. For instance, someone conducting a physical inventory may need to access a seed-to-sale application in the vault for a key piece of information. Or someone helping with harvest may need to be in a flowering room to be most effective.
Seed-to-sale applications including METRC are routinely accessed off-premises as well. Team members who are working at home or after hours regularly access METRC and other seed-to-sale applications from their houses or apartments. And it is commonplace for leadership to access the information-analytics side of seed-to-sale applications in offsite (and sometimes out-of-state) offices and conference rooms during meetings with the board, accountants, lawyers, or ownership. Even the state's compliance officers regularly check METRC from their homes.
This type of access is inherently good. It allows licensees to stay compliant. No one wants that compliance to change. But that is exactly what would happen if the camera requirement for METRC and seed-to-sale access was implemented.
It is not commercially feasible or otherwise reasonable, and would present an undue burden, to require licensees to purchase, install, and link into the security systems cameras in all the places where facility licensees' agents access METRC (notwithstanding the constitutionally infirm invasions of privacy inherent in such a requirement). If DCR dictates that access to METRC or seed-to-sale applications can only occur where a camera is installed, licensees' agents will simply be unable to interface with those systems as much as they would like and the result will be a less effective inventory tracking system. Said another way, this requirement would essentially reflect a policy decision to discourage the best possible compliance, by making it impractical for licensees' agents to monitor those systems as frequently as they would prefer.
Frustratingly, we struggle to identify how such a regulatory change would advance any rational governmental interest. The reason for this camera requirement is apparently to document who is accessing what seed-to-sale function and when. But getting a shot of a computer screen that is in any way readable or even visible is nothing but blind luck (unless the camera is body mounted). As noted above, many of the areas in a facility where METRC is routinely accessed already have cameras. But none of those ceiling mounted cameras are going to capture a readable computer (or phone or tablet) screen. Reading computer screens is just not what security cameras are designed to do.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.090(1)(C)3.E. was not deleted but was revised to address the concerns in this comment.

COMMENT #23: Philip Sarff requests that Testing Labs be exempt from 19 CSR 100-1.090(1)(C)3.F. "This does not seem to take into account testing facilities where they may share common walls with other buildings. How is this proposed to be met in those cases as currently written? I suggest an exclusion be added for testing facilities where this occurs."
RESPONSE: Where facilities share common walls with other buildings, the expectation would be that video monitoring cover all areas on the perimeter that "belong" to the facility. The Department will include discussion of this in its FAQs. No changes have been made to the proposed rule as a result of this comment.

COMMENT #24: JB Waggoner states that consideration needs to be given to facilities in areas where common walls are shared with other buildings.
RESPONSE: Where facilities share common walls with other buildings, the expectation would be that video monitoring cover all areas on the perimeter that "belong" to the facility. The department will include discussion of this in its FAQs. No changes have been made to the proposed rule as a result of this comment.

COMMENT #25: David Bonenberger states for 19 CSR 100-1.090(1)(C)G.3. in the previous rules this section was absent of the two (2) angle requirement in areas where marijuana product was stored. Being forced to add cameras to areas that were not previously required will be overly burdensome from a cost and labor perspective. Licensees who were granted Approval To Operate under the previous rules should be grandfathered and not required to meet the new burden.
RESPONSE: The requirement has always been two (2) camera angles. This isn't a new requirement, though the locations covered may have expanded. Additional protections were found necessary with regards to the security and angles in order to ensure ability to properly monitor and identify. No changes have been made as a result of this comment.

COMMENT #26: Alissa Farquhar states that there are similar motion detection concerns in 19 CSR 100-1.090(1)

(C)8.C., encrypting video storage comes with a heavy cost and performance burden. Encrypting video in real-time significantly increases the performance requirements of the video storage system. Many security camera systems are not able to enable encrypted storage and would be required to be completely replaced. There are many methods to ensure the secure access and playback of security video without requiring the actual video storage to be encrypted.
RESPONSE: This was a suggestion by the department's ITSD, which presently prohibits department access without the videos being encrypted. No changes have been made as a result of this comment.

COMMENT #27: JB Waggoner asks with regards to 19 CSR 100-1.090(1)(C)8.C. to what standard?
RESPONSE: This comment does not request a specific rule change. No changes have been made to the proposed rule as a result of this comment.

COMMENT #28: Amanda Shifflett for 19 CSR 100-1.090(1)(F) that that requiring silent alarms affixed at each point-of-sale, reception area, vault, warehouse, and electronic monitoring station with the capability of alerting local law enforcement agencies immediately of an unauthorized breach of security at the faclity is "excessive and expensive for testing facilities that do not hold anywhere near the amount of product that a manufacturer, cultivator, or dispensary would hold."
RESPONSE: While the department recognizes that testing facilities do not hold the same quantity of marijuana product as other facility types, this requirement is in place to help prevent the diversion of marijuana to illicit markets; protect public health by ensuring the safety of marijuana and products containing marijuana; and ensure the security of marijuana facilities, as required by Art. XIV. This requirement is not unduly burdensome on testing facilities, because the number of silent alarms that would be required at testing facilities would be fewer than those at other facilities. No changes have been made to the proposed rule as a result of this comment.

COMMENT #29: Philip Sarff requests that 19 CSR 100-1.090(1)(G)'s requirement for Security film or shatter-proof glass on glass doors and storefronts be looked at as this does not seem to take into account testing facilities where they may share common walls with other buildings. How is this proposed to be met in those cases as currently written? I suggest an exclusion be added for testing facilities where this occurs.
RESPONSE: No changes have been made to the proposed rule as a result of this comment.

COMMENT #30: JB Waggoner states for 19 CSR 100-1.090(1)(G) that glass break sensors (perhaps combined with motion detection) should be listed as an option here – consider facilities that may reside in historic buildings. Local ordinances often regulated these things and some materials being suggested are prohibited. By adding some alternate techniques, the need to review this for deviation/variance is eliminated – and by a simple yet effective solution. As well, facilities that have already been commenced should be grandfathered out of all infrastructure changes.
RESPONSE: No changes have been made to the proposed rule as a result of this comment.

COMMENT #31: Alissa Farquhar states for 19 CSR 100-1.090(4) that many planned outages require less than a twenty-four (24-) hour notice. It's common for issues to be identified and plans put in place in less than twenty-four (24) hours to resolve issues or perform maintenance on equipment.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.090(4) has been revised to address this comment.

COMMENT #32: JB Waggoner states that there should be a clause for system testing in 19 CSR 100-1.090(4) – like brief tests of camera video loss – logging those items in should be sufficient and those records (and recordings) can be reviewed during inspections.
RESPONSE: No changes have been made to the proposed rule as a result of this comment.

COMMENT #33: David Bonenberger states for 19 CSR 100-1.090(5)(A) a power outage and internet outage should not be included in the description of when a malfunction occurs. The security equipment would work as designed but for the loss of power or internet outage, therefore it is not failing to work as designed or intended due to a flaw or defect. This is similar to when one turns off a light switch. The light would not be considered as malfunctioning as the light would have illuminated but for the power supply being removed. It would be illogical and irresponsible to believe that every time you turn off a switch that the light it powers would be considered to be malfunctioning.
RESPONSE: No changes have been made to the proposed rule as a result of this comment.

COMMENT #34: Gabe Jertberg request that the department remove from 19 CSR 100-1.090(5)(C) "The log must list, by date and time, all communications with the department concernign each malfunction and corrective action." Security malfunction notifications are presently sent to DHSS via email. Records and timestamps from email notifications should suffice in addition to the maintained outage log. Additionally, security malfunction protocols are required to be outlined in SOP and logs provided to the department at time of commencement.
RESPONSE: The purpose behind these logs is to ensure that the facility informed the department of all outages. No changes have been made to the proposed rule as a result of this comment.

COMMENT #35: Philip Sarff requests in 19 CSR 100-1.090(7)(G) that the eight (8) hours of classroom training in providing security services for the security manager not apply to the security managers of lab facilities. The US DEA has established programs for dealing with narcotics testing in the lab, and they do not require the strict levels of knowledge and training presented here. I implore the department to use the processes/procedures that already exist from these government entities in the rules. At the very least, given the much smaller amounts located at a testing facility, testing facilities should be exempt from the requirements of this section.
RESPONSE: Individual facilities can make an argument to the department regarding their situation and request a variance. No changes have been made to the proposed rule as a result of this comment.

COMMENT #36: Department of Health and Senior Services staff suggested adding to 19 CSR 100-1.090(6)(C) "or other individuals" and "or individual" to be consistent with the definition of contractor.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.090(6)(C) has been revised to reflect this suggestion.

COMMENT #37: Department of Health and Senior Services staff suggested that 19 CSR 100-1.090(1)(C)8. and its subparagraphs, and (2) change "facility licensee" to "licensee" for consistency throughout the rules.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.090(1)(C)8., (1)(C)8.A.-B., and (2) have has been revised to reflect this

suggestion.

19 CSR 100-1.090 Facility Security

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

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

1. The use of motion detection as a method of continuous monitoring is not permitted where marijuana product is or will be present.

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

3. Video cameras must provide coverage of –

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

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

C. Each point-of-sale location;

D. All vaults or safes where marijuana product is stored;

E. Any area on facility premises, including offsite warehouses and transport vehicles, where a seed-to-sale system or the state-wide track and trace system are accessed;

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

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

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

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

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

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

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

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

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

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

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

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

C. Video storage must be encrypted.

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

10. Facilities shall have sufficient battery backup for video cameras and recording equipment to support at least sixty (60) minutes of recording in the event of a power outage.

(2) Licensees shall establish and follow policies and procedures –

(3) Medical and marijuana facility licensees with outdoor or greenhouse cultivation spaces, or cultivation or manufacturing facilities with multiple buildings in which cultivation or manufacturing are conducted, shall construct an exterior barrier around the perimeter of the facility that consists of a fence –

(4) For any planned security outage, the licensee shall notify the department at least twenty-four (24) hours prior to the planned outage and provide a plan for facility and product security during the outage. For a planned security outage occurring in fewer than twenty-four (24) hours, the licensee shall notify the department as soon as a security issue requiring an outage is discovered.

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

(C) Evaluating the credentials of any contractors or other individuals who intend to provide services to the facility before the contractor or individual is hired by or enters into a contract with the licensee; and

TITLE 19 – DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 100 – Division of Cannabis Regulation
Chapter 1 – Marijuana

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 1.3.(1)(b), 1.3.(2), 2.4(1)(b), and 2.4(4) of Article XIV, Mo. Const., the department adopts a rule as follows:

19 CSR 100-1.100 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on March 1, 2023 (48 MoReg 493-499). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Department of Health and Senior Services received sixty-three (63) comments on the proposed rule.

COMMENT #1: Antonio Frazier commented, "I'm submitting a comment as a Board Member of Americans for Safe Access (ASA) and Interim Director of its Patient Focused Certification program (PFC).
Section (4)(C) of General Operations outlines the requirements of licenses to implement a QMS based on an approved provider. We're confident that our PFC program is comparable to those

listed and we would like to be included in your regulation text. We are unique in that we've been solely focused on medical cannabis patience for the past 20 years and have worked with industry leaders to create a more specific checklist to ensure safe products are available to patients.
Please let us know if there is someone we can work with to complete the vetting process for approval. Our training program has been adopted by several states and we're approved to perform GMP audits in New York."
RESPONSE: This rule sets forth a non-exhaustive list of acceptable quality management systems. If Americans for Safe Access is a published standard, it would be permissible under the rule as written. No changes have been made to the proposed rule as a result of this comment.

COMMENT #2: Amanda Shifflett commented with regard to 19 CSR 100-1.100(4)(I)3.A. that, "(I)(3)A., which reads that, "All licensees shall establish and follow SOPs to ensure marijuana remains free from contaminants. The systems, equipment, and documenation necessary to follow procedures must address, at a minimum Environmental factors, such as: Floors, walls, and ceilings made of smooth, hard surfaces that are easily cleaned;", "should apply only to where marijuana is processed. If it is being transported in packaging from the vehicle into the facility, it may pass thorugh a parking lot, a yard, or a part of the building without smooth surfaces. This won't impact the sample. This requirement should be in any place the product is opened, weighed, handled or in any other processed. In those areas, floors and ceilings should be as required above. If this is already impleased, then "contact with marijuana" should be defined."
RESPONSE AND EXPLANATION OF CHANGE: What is now 19 CSR 100-1.100(4)(L)3.A. has been revised to address this concern.

COMMENT #3: J.B. Waggoner commented, "The majority of the rule changes are being presented in the context of the government being compelled to act under emergency rule due to the adoption of a constitutional amendment. The fact remains that much more than what is required by said amendment is being lumped into that action – in other words, under false pretense. Every one of the draft rules being prepared for submission under the emergency rule process is full items that need further review, modification, and in many cases, full redaction. As well, the statement at the end of each section claiming the cost to the government would be less than $500 during the emergency period must be false."
RESPONSE: This comment does not request a specific rule change. No changes have been made to the proposed rule as a result of this comment.

COMMENT #4: J.B. Waggoner commented, "This should be edited for clarity and be worded to state, 'Testing facility licenses may not share space with any other licensed facility type – cultivation, manufacturing, or dispensary.'"
RESPONSE: The purpose behind this rule is to make all testing facilities stand-alone facilities, not limit the facilities with which they can combine. No changes have been made to the proposed rule as a result of this comment.

COMMENT #5: Jennifer Rhoads, Gini Fite, and David Mason commented, "There need to be more rules around the gifting provisions in Article XIV. It needs to be specified that gifting of marijuana can only be for 21 and older. Current language in the amendment doesn't specify if the 3 ounce gifting limit is allowed to be received by a person, or if the 3 ounce gifting limit is allowed to be given by someone/entity. This is important to distinguish and regulate because if a facility is allowed to gift marijuana to consumers at the State Fair or other vendor event, they could be potentially giving away quite a lot of marijuana. Likewise, this might also be interpreted that a facility could gift marijuana to a charity or fundraising event as a tax write off. An emergency rule needs to be put in place immediately regulating gifting so there is clarity for all on Article XIV."
RESPONSE: Article XIV does not prohibit licensees from giving away marijuana at no cost. Licensees are bound by Article XIV and the rules and must ensure that all transportation and transactions comply with the requirements set forth therein. This includes compliance with age restrictions and possession limitations. No changes have been made to the proposed rule as a result of this comment.

COMMENT #6: Jennifer Rhoads, Gini Fite, and David Mason commented, "The language in Article XIV uses 'attractive to children' but the Proposed Rules uses 'appeals to children' which are different. It is important for the Proposed Rules to be consistent with the language of the Amendment."
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.110(5)(B)3. has been changed to read "attractive to children."

COMMENT #7: Jennifer Rhoads, Gini Fite, and David Mason commented, "Please add a rule stating that 'A marijuana product must not be advertised or marketed to members of the public unless the person advertising the product has reliable evidence that at least seventy percent (70%) of the audience or readership for the television program, radio program, internet website, or print publication, is reasonably expected to be at least twenty-one (21) years of age.' This rule is important to implement evidence-based youth use and misuse marijuana prevention strategies."
RESPONSE: This language has been considered multiple times throughout the process of drafting the rules. No changes have been made to the proposed rule as a result of this comment.

COMMENT #8: Jennifer Rhoads, Gini Fite, and David Mason commented, "For Proposed Rule regarding Signage and advertising, the department should consider adding rules restricting: Wording that specifically encourages the transportation of marijuana items across state lines or otherwise encourages illegal activity; Asserting that marijuana items are safe because they are regulated by the department or have been tested by a certified laboratory or otherwise make claims that any government agency endorses or supports marijuana; Displaying consumption of marijuana items; Containing material that encourages the use of marijuana because of its intoxicating effect; or Containing material that encourages excessive or rapid consumption, Using a loudspeaker or public address system to advertise marijuana."
RESPONSE: The advertising language has been thoughtfully considered in light of Article XIV and public comments received. No changes have been made to the proposed rule as a result of this comment.

COMMENT #9: Gabe Jertberg requested that if licensees are required to obtain regulatory approval before making business changes, DHSS should establish and adhere to a reasonable response deadline for approval of Business Change Applications (such as sixty (60) days). This would allow licensees to anticipate an estimated response time, which would facilitate organization, continuous operation, and scheduling needed for modifications.
RESPONSE: The amount of time it takes for the department to respond is affected by many factors outside the department's control. No changes have been made to the proposed rule as a result of this comment.

COMMENT #10: J.B. Waggoner commented, "The fees in the rule are piling up and are excessive. Further, their legality should be reviewed."
RESPONSE: This comment does not request a specific rule change. No changes have been made to the proposed rule as a result of this comment.

COMMENT #11: Adolphus Busch requests that the department amend this section to include only changes that would modify the ownership of ten percent (10%) or more for the person. Requesting this detailed ownership information for ownership changes of less than ten percent (10%) equity is extremely unnecessary. It creates a massive amount of unnecessary work for the DHSS and each licensee. The DHSS should request this information for ownership changes of ten percent (10%) or more for a person or entity that did not already have ownership in the licensee and for changes resulting in a majority stake of the licensee for a person or entity that did or did not have ownership in the company previously. This required information for an ownership change under ten percent (10%) equity for an individual or entity should not be required.
RESPONSE: The rule is based upon ownership, and an owner is defined in Article XIV and in the rules. Article XIV requires that no owners have a disqualifying felony offense, so if an individual becomes an owner, the department must ensure that the individual meets this requirement. No changes have been made to the proposed rule as a result of this comment.

COMMENT #12: Andrew Lammert requested that the language in 19 CSR 100-1.100(2)(B)6. mirror the language in 19 CSR 100-1.100(2)(C).
RESPONSE: The two (2) sections referenced in Mr. Lammert's comment relate to different concepts. The department believes the existing language to be appropriate. No changes have been made to the proposed rule as a result of this comment.

COMMENT #13: Andrew Lammert suggested spelling out "MOU."
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.100(2)(C)6. has been revised to include "Memorandum of Understanding (MOU)."

COMMENT #14: Andrew Lammert requested that it be made clear in 19 CSR 100-1.100(2)(D) that dispensaries cannot move congressional districts during these move requests.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.100(1)(D) has been added to address this concern.

COMMENT #15: Andrew Lammert suggested that the language in 19 CSR 100-1.100(4)(B) read, "All licensees must comply at all times with applicable state, local, and federal requirements so long as the federal requirements are not contrary to or inconsistent with Article XIV of the Missouri Constitution."
RESPONSE: The department is not attempting to write regulations to avoid the application of federal law. However, because the provision already requires compliance with only "applicable" requirements, the department's position is that the federal prohibition on marijuana does not apply and therefore does not fall within the requirements of this provision. No changes have been made to the proposed rule as a result of this comment.

COMMENT #16: Andrew Lammert suggested removing "using published standard" from 19 CSR 100-1.100(4)(C), as it does nothing to objectively identify the type of quality management system a licensee can use. He further suggested adding language which describes what a quality management system is as that term is not self-defining while providing a definition as, "a set of policies, processes and procedures required for planning and execution (production/development/service) in the core business area of an organization."
RESPONSE: This rule was designed to afford licensees the opportunity to choose among more standards, rather than limiting them through over-regulation. The department does not find it necessary to define quality management system. No changes have been made to the proposed rule as a result of this comment.

COMMENT #17: David Bonenberger commented, with regard to 19 CSR 100-1.100(4)(C), "Applying for, procuring, and maintaining ISO certification is expensive, resource-intensive, invasive, and otherwise unduly burdensome for any Licensee. There is little to no reasonable governmental interest in imposing ISO certification requirements on any facility other than a testing lab. We do not believe any other industry regulator in the country imposes an ISO certification requirement on any facility licensee other than testing labs. An ISO certification requirement will impose undue burdens and costs on licensees, which must be passed on to consumers and patients. This means that Missourians would be forced to pay even more for the legal market's products than necessary, as compared to the illegal market and the cost of products in other legal states."
RESPONSE: The rule does not require licensees to utilize ISO for their quality management system standard. 19 CSR 100-1.110 is the testing rule, and it does require testing licensees to be accredited under ISO 17025 standards. However, this requirement does not apply to any other licensees. No changes have been made to the proposed rule as a result of this comment.

COMMENT #18: J.B. Waggoner commented, with regard to 19 CSR 100-1.100(4)(I), "This entire section (I above and its subparts) should be focused on areas where marijuana is tested, processed, and stored – should not apply to the entire facility. In the case of analytical laboratories, chemical hygiene plans govern how people prevent moving contaminants to and from areas that are designated for sample storage, handling, and testing. This has been the standard in the industry for decades. As well, the material that lands at an analytical lab goes there to die. It does will not make it to the marketplace."
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.100(4)(I)3.A. has been revised to address this concern.

COMMENT #19: Jennifer Rhoads, Gini Fite, and David Mason commented that they would like, "An addition of a restriction on advertising using patriotic imagery similar to restrictions in place for alcohol sales including language that states, 'No advertisement may contain any statement, design, device, or pictorial representation of or relating to, or capable of being construed as relating to the armed forces of the United States or of the American flag, any state flag, or of any emblem, seal, insignia, or decoration associated with any such flag or the armed forces of the United States; nor may any advertisement containing any statement device, design or pictorial representation of or concerning any flag, seal, coat of arms, crest, or other insignia, likely to falsely lead the consumer to believe that the product has been endorsed, made or used by or produced for or under the supervision of or in accordance with the specifications of the government, organization, family or individual with whom the flag, seal, coat of arms, crest, or insignia is associated.'"
RESPONSE: No changes have been made to the proposed rule as a result of this comment.

COMMENT #20: Jennifer Rhoads, Gini Fite, and David Mason commented that they would like, "An addition of a restriction on advertising below cost similar to restrictions in place for alcohol sales. This would be consistent with this documents Proposed Rule restricting agents and facilities from gifting marijuana. The wording could include, 'No advertisement may include a price that is below the retailer's actual cost.'"
RESPONSE: No changes have been made to the proposed rule as a result of this comment.

COMMENT #21: Jennifer Rhoads, Gini Fite, and David Mason commented that they would like, "An addition of a restriction advertising free or reduced price Medical Marijuana cards similar to the restrictions in place for alcohol sales prohibiting 'free deliver' or 'free credit' as an inducement to purchase. Wording could include, 'Any statement offering free or reduced Medical Marijuana cards to consumers, as an inducement to purchase marijuana.'"
RESPONSE: No changes have been made to the proposed rule as a result of this comment.

COMMENT #22: Gabe Jertberg requested that 19 CSR 100-1.100(5)(B) be deleted in its entirety. He commented, "The state medical marijuana program is inherently, by name and intention, based on the studied medical and therapeutic effects and uses of marijuana for ailments and pain relief. While this restriction might be reasonable for a recreational/adult-use product offering, producers of medical products should be permitted to state accurate and truthful therapeutic effects. This would align with other comparable industry standards.
While we appreciate the Department's apparent willingness to expand licensees' rights to make true and accurate statements about products, the caveat requiring that the statement be evaluated and approved by the FDA is meaningless. The FDA has not approved a marketing application for marijuana for any indication. This is because the FDA relies on the research conducted by manufacturers and other scientific investigators to make such evaluations, but cannabis is federally illegal – so no research has been conducted on a significant scale for FDA review and approval. Thus, by requiring FDA approval for such statements, no statements are allowed."
RESPONSE: Mr. Jertberg's conclusion is correct. This provision was included to account for potential future changes to federal law and application. No changes have been made to the proposed rule as a result of this comment.

COMMENT #23: J.B. Waggoner commented with regard to 19 CSR 100-1.100(6), "This is a big fine with an ambiguous definition... 'apprised of certain information'... who defines this?"
RESPONSE AND EXPLANATION OF CHANGE: The information required to be reported is identified in subparagraphs (A)-(K) of 19 CSR 100-1.100(6). However, for clarification, 19 CSR 100-1.100(6) has been revised to add the phrase "as described below."

COMMENT #24: J.B. Waggoner commented with regard to 19 CSR 100-1.100(6)(A)1., "Email can be unreliable – a lot of weight is being placed on its reliability."
RESPONSE: This comment does not request a specific rule change. No changes have been made to the proposed rule as a result of this comment.

COMMENT #25: Andrew Lammert suggested changing the language in 19 CSR 100-1.100(6)(H) to reflect his suggestion for 19 CSR 100-1.060(3)(I), which read, "For facilities that will be cultivating marijuana, whether the cultivation will be conducted in an indoor, outdoor, or greenhouse space; and if more than one of those spaces will be simultaneously utilized by a facility, the amount of Flowering Plant Canopy Space and/or plants dedicated to each indoor, outdoor or greenhouse space."
RESPONSE: 19 CSR 100-1.160 addresses cultivation requirements, including discussing cultivation practices. Additionally, the parenthetical reference to what is referred to as cultivation practice in 19 CSR 100-1.100(6)(H) clarifies what is meant in this section. No changes have been made to the proposed rule as a result of this comment.

COMMENT 26: Regarding 19 CSR 100-1.100(5)(B)4., Andrew Lammert suggests referencing the labeling regulation in 1.120 to remove vagueness.
RESPONSE: Labeling of marijuana product is required to comply with the labeling rule. Referencing that rule here is unnecessary and would not add clarity. No changes have been made to the proposed rule as a result of this comment.

COMMENT #27: J.B. Waggoner commented, "This is a big fine with an ambiguous definition..." apprised of certain "information"...who defines this?" related to 19 CSR 100-1.100(6).
RESPONSE AND EXPLANATION OF CHANGE: The information required to be reported is identified in the subsections of section (6). 19 CSR 100-1.100(6) has been revised to add clarity on this issue.

COMMENT #28: Gabe Jertberg requests that the department modify 19 CSR 100-1.100(6)(B) to read, "Licensees must report any changes to the ownership of the applicant or licensed entity, including ownership percentage, within five (5) days of such change." The requirement to report ownership structure to the department on an annual basis is redundant and overly burdensome. Most ownership changes must be approved by the department. While GDF is aware that certain licensees have modified ownership structure without submitting an ownership change request, it is unreasonable to require ALL licensees to submit unchanged records to the department on a regular basis, when the objectionable behavior can be prevented and sanctioned by imposing an affirmative requirement to submit notice of changes. The department has significant existing responsibilities. There is no need to increase the amount of paperwork and submissions the department is required to review.
RESPONSE: This provision was included in response to the department becoming aware that not all licensees were properly notifying the department of such changes. This requirement serves as a means of ensuring that the department is made aware at least annually of changes that could affect the license and whether that license is allowed under the Constitution based upon the differing requirements surrounding license ownership. No changes have been made to the proposed rule as a result of this comment.

COMMENT #29: J.B. Waggoner commented, in response to 19 CSR 100-1.100(6)(B), "The department is loading itself up with admin burden–and placing it on the licensees, as well. No report should mean no change. If it is found to be otherwise, then it is a suspected violation. That is simple and already in place."
RESPONSE: This comment does not request a specific rule change. No changes have been made to the proposed rule as a result of this comment.

COMMENT #30: Andrew Lammert suggests that 19 CSR 100-1.100(6)(C) be changed to, "The licensee shall notify the

department within five (5) days of the initiation and conclusion of any legal proceedings or government investigations that would prohibit licensee from operating in accordance with department regulations, including a petition for receivership, loss of lease or location, or disputes relating to the ownership of the facility license" which removes, "or any other activity that would negatively affect the licesee's ability to operate in accordance with department regulations."
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.100(6)(C) has been revised to address this comment and add further language regarding what notification is expected.

COMMENT #31: Andrew Lammert suggests changing the language in 19 CSR 100-1.100(6)(E) to read, "The licensee shall notify the department within twenty-four (24) hours of injuries to employees or other persons at the facility resulting in medical care being administered by a medical professional." due to feeling that the current language is vague, ambiguous, and overly broad and it not being clear where to draw the line.
RESPONSE: The broad nature of this provision is intentional to encompass anything that could affect the health and safety of a facility or anyone in the facility. No changes have been made to the proposed rule as a result of this comment.

COMMENT #32: J.B. Waggoner commented regarding 19 CSR 100-1.100(6)(E), "Injury notifications are a function of OSHA and the Department of Labor. The department is trying to do too much. What defines an injury. Cuts and scrapes are common in material handling. This should be left to standard labor practices."
RESPONSE: The concern about what defines injury is addressed within this provision, indicating medical care is administered by a medical professional. This rule provision is in place so the department can make a determination about potential ongoing threats to public health and safety. No changes have been made to the proposed rule as a result of this comment.

COMMENT #33: Andrew Lammert suggests the following language for 19 CSR 100-1.100(6)(G), "The licensee shall notify the department within twenty-four (24) hours of discovery of any criminal misconduct of an employee, contractor, owner, or volunteer which results in the violation of this chapter." to clear up some vagueness.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.100(6)(G) has been revised to remove the ambiguous language. The new proposed language has not been added, as this is not limited to only activity that results in rule violations.

COMMENT #34: Andrew Lammert suggests the following language for 19 CSR 100-1.100(6)(H), "A cultivation licensee shall notify the department before: (1) changing the indoor, outdoor or greenhouse space in which it currently cultivates to a different indoor, outdoor or greenhouse space; and/or (2) modifying the Flowering Plant Canopy Space or amount of plants being cultivated in each indoor, outdoor or greenhouse space in which the licensee currently cultivates." as he believes that "cultivation practice" is vague. Similarly, J.B. Waggoner commented that this provision is vague and needs more thought and detail.
RESPONSE: Cultivation practice is identified in parentheses here and is referred to more specifically in the cultivation rule of this chapter. No changes have been made to the proposed rule as a result of this comment.

COMMENT #35: Missouri Department of Health and Senior Services staff suggested moving 19 CSR 100-1.100(1)(D) to under 19 CSR 100-1.100(4) as it better fits under this category in the rules.
RESPONSE AND EXPLANATION OF CHANGE: The language in the original 19 CSR 100-1.100(1)(D) was moved to 19 CSR 100-1.100(4)(B).

COMMENT #36: Missouri Department of Health and Senior Services staff suggested that the licensee notify the department of facility changes not required through the Commencement Inspection request rules which will allow Compliance Officers to follow-up on as required.
RESPONSE AND EXPLANATION OF CHANGE: Language was added to 19 CSR 100-1.100(6)(K) in order to achieve the request of this comment.

COMMENT #37: Missouri Department of Health and Senior Services staff suggested changing 19 CSR 100-1.100(1)(B) suggested adding the word "due" after "fees" and before "will be" in the sentence, "The fees will be the amount that is effective as of that license or certification's annual fee due date."
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.100(1)(B) was revised to reflect this change.

COMMENT #38: Missouri Department of Health and Senior Services staff requested in 19 CSR 100-1.100(2)(B)5. that the word previously before after "or have" and before "submitted such fingerprints" in this section and remove "within the last 6 months."
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.100(2)(B)5. was revised to reflect this change.

COMMENT #39: Missouri Department of Health and Senior Services staff requested that in 19 CSR 100-1.100(2)(B)8. it be clarified that they can pay once for the same request if the department is processing it at the same time as other identical requests.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.100(2)(B)8. was revised to reflect this change.

COMMENT #40: Missouri Department of Health and Senior Services staff requested in 19 CSR 100-1.100(2)(C)5. that the word previously before after "or have" and before "submitted such fingerprints" in this section and remove "within the last 6 months." Also proposed removing "new and" before "proposed owners," as this language was confusing.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.100(2)(C)5. was revised to reflect these changes.

COMMENT #41: Missouri Department of Health and Senior Services staff requested in 19 CSR 100-1.100(2)(C)9. that it be clarified that they can pay once for the same request if they are processing it at the same time as other identical requests.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.100(2)(C)9. was revised to reflect this change.

COMMENT #42: Missouri Department of Health and Senior Services staff requested in 19 CSR 100-1.100(2)(D)1. to include square footage and specifications for what is required.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.100(2)(D)1. was revised to reflect this change.

COMMENT #43: Missouri Department of Health and Senior Services staff suggested in 19 CSR 100-1.100(3)(B)5. that the word previously before after "or have" and before "submitted such fingerprints" in this section and remove "within the last 6 months".
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.100(3)(B)5. was revised to reflect this change.

COMMENT #44: Missouri Department of Health and Senior Services staff suggested in 19 CSR 100-1.100(3)(B)8. that it be clarified that they can pay once for the same request if they are processing it at the same time as other identical requests.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.100(3)(B)8. was revised to reflect this change.

COMMENT #45: Missouri Department of Health and Senior Services staff suggested in 19 CSR 100-1.100(3)(C)1. to include square footage and specifications for what is required.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.100(3)(C)1. was revised to reflect this change.

COMMENT #46: Missouri Department of Health and Senior Services staff suggest in 19 CSR 100-1.100(4)(J) that the language be modified to read "All licensees shall post a sign and outline in policy that consumption of marijuana product is not allowed on the licensed premises at any time, including in any approved transport vehicles."
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.100(4)(J) was revised to reflect this change.

COMMENT #47: Missouri Department of Health and Senior Services staff suggested in 19 CSR 100-1.100(4)(K) that language be added to articulate that the license and associated marijuana cannot be the property of anyone but the licensed entity.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.100(4)(K) was revised to reflect this change.

COMMENT #48: Missouri Department of Health and Senior Services staff suggested in 19 CSR 100-1.100(5) that a new section be added to that deals with exterior signage the utilization of names on the signage.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.100(5)(D) was added in order to reflect this change.

COMMENT #49: Missouri Department of Health and Senior Services staff requested that 19 CSR 100-1.100(6)(C) include language to include the notification of legal proceedings, government investigation or other activities that would negatively impact the department's review of an application.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.100(6)(C) was revised to reflect this change.

COMMENT #50: Missouri Department of Health and Senior Services staff requested that 19 CSR 100-1.100(6)(I) be revised to accurately reflect the intention of this rule to request a commencement inspection.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.100(6)(I) was revised to reflect this change.

COMMENT #51: Missouri Department of Health and Senior Services staff requests that 19 CSR 100-1.100(4)(I)3. be amended to reflect the manner in which security cameras will be where marijuana is or will be present.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.100(4)(I)3. was revised to reflect this change.

COMMENT #52: Andrew Lammert and Gabe Jertberg requested changes to 19 CSR 100-1.100(5)(B)3., as the shape or any part of the shape of a human should be allowed in advertisements that may run with human dissemination of information. Suggestions included removing this specific prohibition and adding to the list "cartoon renderings, toys, or similar images or items typically marketed to children." Further, a suggestion was made to indicate that the content cannot be intended to appeal to children.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.100(5)(B)3. has been revised to add subparagraphs A. and B. that delineate expectations in print media versus in video media to modify the provision to account for the use of humans in video advertising.

COMMENT #53: Missouri Department of Health and Senior Services staff requests that 19 CSR 100-1.100(1)(C) be revised to clarify that this is intended at the time of an application for relocation as well.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.100(1)(C) was revised to address this suggestion.

COMMENT #54: Missouri Department of Health and Senior Services staff requests that 19 CSR 100-1.100(2)(D) be revised to add "or warehouse" to what is required in a change request.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.100(2)(D) was revised to address this suggestion.

COMMENT #55: Missouri Department of Health and Senior Services staff requests that language be added to address the situation when a licensee loses control of their location or license.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.100(4)(E) has been added for clarity.

COMMENT #56: Missouri Department of Health and Senior Services staff requests that language be added to clarify that third party management companies may not hold rights to the marijuana product within licensed facilities.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.100(4)(G) was added to address this concern.

COMMENT #57: Missouri Department of Health and Senior Services staff suggested deleting "including plants, flowers, prerolls, and infused products" from 19 CSR 100-1.100(4)(F) due to the fact that all are included in the definition of marijuana product.
RESPONSE AND EXPLANATION OF CHANGE: What is now numbered 19 CSR 100-1.100(4)(I) was revised consistent with this suggestion.

COMMENT #58: Missouri Department of Health and Senior Services staff suggested revising 19 CSR 100-1.100(6)(A)-(J) to make the language regarding licensees versus the licensee consistent with one another.
RESPONSE AND EXPLANATION OF CHANGE: What is now numbered 19 CSR 100-1.100(6)(A)-(J) have been revised for consistency regarding the reference to licensees.

COMMENT #59: Missouri Department of Health and Senior Services staff suggested revising 19 CSR 100-1.100(1)(A) and (6) to remove "facility" before "licensee" for consistency throughout the chapter.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.100(1)(A) and (6) have been revised for consistency regarding the references to licensees.

COMMENT #60: Dana Sullinger states with regards to 19 CSR 100-1.100(4)(C) –
"(C) Licensees shall implement a quality management system using a published standard, such as those offered by International Organization for Standardization, ASTM International, Cannabis Safety and Quality, or Foundation of Cannabis Unified Standards, within one (1) year of the date the 3 Emergency Rule facility receives department approval to operate. The chosen standard shall be applicable to the licensee's facility type and be implemented with emphasis on

regulatory compliance
I have been working through the options, and here is what I have found:
International Organization for Standardization- They are articles with suggestions that you can purchase. My search for dispensary turned up articles regarding Chinese medical dispensaries. Then I searched for cannabis. That turned up articles that mostly related to GPP (manufacturing) and cultivation. Very little for dispensaries. I then searched for retail cannabis and got the same results as my search for cannabis. Nothing specific for dispensaries. Pricing is not in American dollars. No clue how much an article could actually cost. No one to actually talk to to help you find what you need.
ASTM: I found one package of 4 articles for $216. Not a lot of description with the articles, so not really sure if it covers dispensaries or not. Again, no live person to consult with or talk to. So that begs the question, if we purchase these articles and they have little to no suggestions for dispensaries, are we good anyway? My fear is that dispensaries will purchase them and turn in a receipt for them and say they are good, whether they read them or not.
CSQ: They have a 12 step course for $299 that includes 4 courses on the following: Growing and cultivation of cannabis plants, manufacturing and extraction of cannabis, Manufacturing and Infusion of Cannabis into Food and Beverage products and Manufacturing of cannabis dietary supplements. Doesn't sound like they have anything specific for Dispensaries. I did fill out their "Contact Me" form, but have yet to hear back from anyone.
FOCUS: I filled out their "Contact me" and actually had a call with the lady who runs it. She told me she had no idea she was part of your emergency rules until a lawyer called her and told her. That tells me that no one from your team vetted this company at all. Not a great start!. At least it was someone to talk to. They are working through a program, but it didn't sound like she had a lot to offer dispensaries that we aren't already doing. $39 a person (they think). Not sure if it's just for management or all employees.
After looking at these companies, I am not confident that they are prepared to help the Missouri market in the way you intended. I don't feel confident that ANY company was properly vetted, and I would not want to waste my time and money on programs that focus on cultivation and manufacturing, but offer very little for dispensaries.
I don't know what motivated this rule, and I know you have good intentions, but at this time, I would ask you to rescind this rule until the State can actually vett these companies and list out exactly what courses every division (cultivation, manufacturing, dispensary) needs to take. And since some of them only sell articles, you need to decide if purchasing an article is enough to show compliance. If not, then you need to be specific about what in those articles needs to be accomplished before they can show compliance to this rule. This should have been done BEFORE you wrote the rule, not after the fact, and not in haste. All companies should have been notified so they could show you what they have before you listed them as an option.
Personally, I think you have more than enough rules to cover every division. If you are having issues with certain areas, then go to these companies and work with them to develop exactly what you want. Don't assume that these companies have what you are looking for without talking to them and that their "General" rules are not already covered by your existing rules.
Dispensaries already get slammed with 70% tax rates thanks to 280-E. We make the least amount of profit since we have NO deductions that we can apply to our taxes. Asking us to pay for one more thing that has not been vetted seems like a waste of money and time, and the State should not be imposing more cost on us at this time without a proper game plan to support this rule."
RESPONSE: The rule does not require a licensee utilize those standards, but rather gives those as an example of a quality management system. It is reasonable to expect a licensee to have some kind of quality management system in place when selling cannabis to patients and consumers. No changes have been made to the proposed rules as a result of this comment.

COMMENT #61: Jamie Birch commented, "2. 100-1.100: Comment #9 – Generally we urge agencies to provide as much certainty to individuals/businesses as possible, particularly as it relates to timelines for processes outlined in rule. I would ask the department reconsider its response to this comment and provide these businesses with a time frame in which they can expect to hear back from the department."
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.100(2)(A)-(D) and (F) have been updated in response to this comment, by providing timeframes for the department to respond to the various types of requests.

COMMENT #62: Missouri Department of Health and Senior Services staff suggests moving the provision from 19 CSR 100-1.100(6)(A)2., which is meant to refer to cardholders, licensees, and applicants but is currently in the rule that applies to licensees, to 19 CSR 100-1.020, which applies to all of those categories of entities.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.100(6)(A)2. was deleted, and new language was added to 19 CSR 100-1.020(6), to clarify that this provision applies to licensees, cardholders, and applicants.

COMMENT #63: The Missouri Cannabis Trade Association commented that the prohibition against using the shape or part of the shape of a human in print media violates Article XIV's prohibition against creating regulations "more stringent than comparable state regulations on the advertising and promotion of alcohol sales." It is unreasonable to force licensees to craft print media advertisements without depicting any human or person, i.e., the target audience for both consumer products and medicines. The Association recommends revising 19 CSR 100-1.100(5)(B)3. to delete subparts (A) and (B) and to apply the same restrictions to print media and video media, specifically prohibiting "artistic, caricature, or cartoon renderings of the shape or any part of the shape of a human."
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.100(5)(B)3. has been modified as recommended by the Association. Subparagraphs A. and B. are deleted and 19 CSR 100-1.100(5)(B)3. is amended to prohibit in all advertisements "artistic, caricature, or cartoon renderings of the shape or any part of the shape of a human."

19 CSR 100-1.100 Facilities Generally

(1) Licensing and location.

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

(B) Each license or certification shall be charged an annual fee once the license or certification is granted. The first annual fee will be due thirty (30) days after a license or certification is issued and shall be due annually on that same date as long as the license or certification remains valid, except for in the case of microbusinesses whose first annual fee will be due on the anniversary of their licensure. The department shall publish the current fees, including any adjustments, on its website. The fees due will be the amount that is effective as of that

license or certification's annual fee due date.

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

(D) A dispensary or microbusiness will only be approved to relocate within the congressional district in which they were originally licensed.

(2) Marijuana facility business change applications. Marijuana facility licensees must apply for and obtain the department's approval before they may –

(A) Transfer their license to a different entity with the same ownership. Once the department has confirmed receipt of a complete application, it will approve or deny the application within sixty (60) days. Such a request must include at least the following:

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

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

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

4. Other documentation as requested to verify ownership; and

5. An administrative and processing fee of two thousand dollars ($2,000).

(B) Make any changes that would result in an individual becoming an owner of the licensed entity who was not previously an owner. Once the department has confirmed receipt of a complete application, it will approve or deny the application within ninety (90) days. Such requests must include at least the following:

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

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

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

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

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

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

7. Other documentation as requested to verify ownership; and

8. An administrative and processing fee of five thousand dollars ($5,000), which shall only be assessed once on multiple licensed entities with identical ownership making the same changes in ownership, when submitted at the same time;

(C) Make any changes that would result in an overall change in ownership interests of fifty percent (50%) or more from the last approved ownership of the licensee. Once the department has confirmed receipt of a complete application, it will approve or deny the application within one hundred fifty (150) days. Such requests may only be submitted after the licensee's facility has received approval to operate and must include at least the following:

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

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

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

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

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

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

A. Asset purchase agreement;

B. Merger, sale, transfer, Memorandum of Understanding (MOU), or other like agreement between the licensee and transferee;

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

D. Location lease agreement or proof of ownership;

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

8. Other documentation as requested to verify ownership; and

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

(D) Change the licensee's facility or warehouse location. Once the department has confirmed receipt of a complete application, it will approve or deny the application within ninety (90) days. Such requests shall include at least the following:

1. Proposed blueprints that outline the entire facility and feature all rooms and areas clearly labeled, including purpose and square footage, camera locations, limited access areas, and access permissions;

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

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

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

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

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

(3) Medical facility business change applications. Medical facility licensees must apply for and obtain the department's approval before they may –

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

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

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

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

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

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

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

A. Asset purchase agreement;

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

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

D. Location lease agreement or proof of ownership.

7. Other documentation as requested to verify ownership; and

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

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

1. Proposed blueprints for the facility that outline the entire facility and feature all rooms and areas clearly labeled, including purpose and square footage, camera locations, limited access areas, and access permissions;

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

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

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

5. An administrative and processing fee of five thousand dollars ($5,000); and

(4) General operations.

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

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

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

(E) All licensees must receive approval to operate within one (1) year of being issued a license or certification; except microbusiness licensees, which must receive approval to operate within two (2) years of issuance. Absent a granted waiver or variance, licenses may be revoked or sanctioned if not operational and active within the required time frame.

(F) In the event a licensee loses control of their approved location, facility, or license, the license shall be suspended or restricted until a new location is approved or access to the facility or license is restored.

(G) Only licensees may hold rights to marijuana product within licensed facilities.

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

(I) All marijuana product sold in Missouri shall have originated from marijuana grown and cultivated in a licensed cultivation facility located in Missouri.

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

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

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

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

2. Employee health and sanitation; and

3. Environmental factors, such as –

A. In all areas of the facility where marijuana is or will be present, floors, walls, and ceilings made of smooth, hard surfaces that are easily cleaned;

B. Temperature and humidity controls;

C. A system for monitoring environmental conditions;

D. A system for cleaning and sanitizing rooms and equipment;

E. A system for maintaining any equipment used to control sanitary conditions; and

F. For cultivation and manufacturing facilities, an air supply filtered through high-efficiency particulate air filters under positive pressure.

(M) Consumption of marijuana product on the licensed premises, including in any approved transport vehicles, is prohibited. All licensees shall post a sign at the employee and public access points to the facility that consumption of marijuana product is not allowed on the licensed premises.

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

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

(P) The department may issue notice of marijuana product recall to licensees or the public if, in its judgment, any particular marijuana product presents a threat or potential

threat to the health and safety of qualifying patients or consumers. All facilities are responsible for complying with recall notices. Recalled items must be immediately pulled from production or inventory and quarantined until such time as the department determines the item is safe, may be remediated, or must be destroyed.

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

(B) No advertisement of marijuana may contain:

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

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

3. Any content that is attractive to children, including but not limited to the shape or any part of the shape of an animal or fruit, including realistic, artistic, caricature, or cartoon renderings, and artistic, caricature, or cartoon renderings of the shape or any part of the shape of a human; or

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

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

(D) No licensee shall use exterior signage or advertising that does not accurately reflect a licensee's legal name, business name or d/b/a, or trade name on record with the department.

(6) Licensee notification and reporting. Licensees have a duty to keep the department apprised of certain information as described below. Failure of a licensee to report required information to the department may result in administrative penalties, to include a fine of up to ten thousand dollars ($10,000), suspension, or revocation of the license.

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

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

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

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

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

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

(G) Licensees shall notify the department within twenty-four (24) hours of discovery of any criminal misconduct of an employee, contractor, owner, or volunteer.

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

(I) After the department approves a change in location, the licensee shall request a commencement inspection as required pursuant to this chapter.

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

(K) Licensees shall notify the department in writing prior to initiating a facility update that would be subject to 19 CSR 100-1.090, such as adding point of sale equipment in a dispensary or replacing windows or doors. Within the notification, licensees shall provide their plan to remain in compliance with applicable rules of this chapter and ensure security of the facility and marijuana product during the update.

TITLE 19 – DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 100 – Division of Cannabis Regulation
Chapter 1 – Marijuana

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 1.3.(1)(b), 1.3.(2), 2.4(1)(b), and 2.4(4) of Article XIV, Mo. Const., the department adopts a rule as follows:

19 CSR 100-1.110 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on March 1, 2023 (48 MoReg 500-505). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Department of Health and Senior Services received two hundred twelve (212) comments on the proposed rule.

COMMENT #1: Amanda Shifflett commented, with regards to 19 CSR 100-1.110(3)(A)2., "The requirement for a degree is discriminatory and eliminates qualified candidates. There must be an equivalent years of experience option (for example, bachelor's degree or 5 years' experience in a laboratory environment). There is no degree requirement in ISO, there is no degree requirement by the FDA in pharma. Decisions on the necessary qualifications of employees need to be determined by the testing facility."
RESPONSE: 19 CSR 100-1.110(2)(A)2. has been revised to include an alternative experience option.

COMMENT #2: Amanda Shifflett commented, with regards to 19 CSR 100-1.110(3)(C)1., "Is this happening? Blind PT samples can be purchased from several places online. Is the department involved in this decision and purchasing? Does this include the PT testing that is required as part of verification per section 4.A.2.A.?"
RESPONSE: This comment is not requesting a change to the rules but rather asks questions about the rules. No changes have been made to the proposed rules as a result of this comment.

COMMENT #3: Amanda Shifflett commented that the requirements in 19 CSR 100-1.110(6)(B), (C), and (G)2.–3. also be included in the manufacturer and cultivator sections of the

rules.
RESPONSE: 19 CSR 100-1.110 applies to all licensees, not just testing facility licensees. As is provided in the purpose section, the rule explains what regulations apply to the testing of marijuana product. These sections discuss the sampling for testing and the responsibilities of licensees with regards to mandatory testing and are therefore appropriately included only in the testing rule. No changes have been made to the proposed rules as a result of these comments.

COMMENT #4: Amanda Shifflett commented that the requirement included in 19 CSR 100-1.110(6)(G)1. should be a requirement of the manufacturer or cultivator, not the laboratories.
RESPONSE: 19 CSR 100-1.110 applies to all licensees, not just testing facility licensees. As is provided in the purpose section, the rule explains what regulations apply to the testing of marijuana product. This section discusses the responsibilities of licensees with regards to mandatory testing and is therefore appropriately included in the testing rule. It does not impose a requirement on the testing licensees. No changes have been made to the proposed rules as a result of this comment.

COMMENT #5: 19 CSR 100-1.110(10)(A)-(D) Amanda Shifflett requests that these should be with the manufacturing section as it does not apply to testing facilities and the activity would be done by the licensee and not the testing lab.
RESPONSE: 19 CSR 100-1.110 applies to all licensees, not just testing facility licensees. As is provided in the purpose section, the rule explains what regulations apply to the testing of marijuana product. This section discusses the responsibilities of licensees with regards to remediation after failing mandatory testing and is therefore appropriately included in the testing rule. It does not impose a requirement on the testing licensees. No changes have been made to the proposed rules as a result of this comment.

COMMENT #6: 19 CSR 100-1.110(11) Amanda Shifflett requests that this be moved to the manufacturer or cultivator section.
RESPONSE: 19 CSR 100-1.110 applies to all licensees, not just testing facility licensees. As is provided in the purpose section, the rule explains what regulations apply to the testing of marijuana product. This section discusses the possibility that the department may require a facility to submit samples for testing at any time and is therefore appropriately included in the testing rule. No changes have been made to the proposed rules as a result of this comment.

COMMENT #7: Jonathan Brace requests that 19 CSR 100-1.110(3)(C) be amended to read, "Testing facility licensees shall participate in a proficiency testing program provided by an organization that operates in conformance with the requirements of ISO/IEC 17043 once annually after the licensee has received approval to operate." He commented that, "this goes far beyond the ISO 17025 requirement of needing 1 PT test every 2 years. In addition to the inter-lab testing that is written later in the rules this will create undue financial burden. Doing PT tests twice a year, covering the entire scope, would be over $20,000 a year."
RESPONSE: 19 CSR 100-1.110(3)(C) has been amended to change the requirement from twice per year to once per year.

COMMENT #8: Jonathan Brace requests that 19 CSR 100-1.110(3)(D) be amended to read, "Testing licensees shall retain all remaining sample material that was not used in the testing process for a minimum of thirty (30) days after testing is complete." The majority of the labs were not built to store product long-term or large amounts of product. With increased production, there is no room for storage at the facilities. Extending the storage will create undue burden on the labs. Furthermore, doing any testing after thirty (30) days would not be indicative of what the product results were at the time of testing or what a consumer may find on the market. Due to variations in storage conditions, the lab cannot mimic issues that may have occurred to products after testing and being stored at various locations.
RESPONSE AND EXPLANATION OF CHANGE: In response to this comment, 19 CSR 100-1.110(3)(D) to thirty (30) days as suggested.

COMMENT #9: Jonathan Brace requests that 19 CSR 100-1.110(3)(D)1. be amended to read, "Excess sample material shall be securely stored in a manner that prevents sample degradation, contamination, and tampering, and the sample material must be made available to the department upon request."
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.110(3)(D)1 was amended so the word "prohibits" has been revised to "prevents" as suggested.

COMMENT #10: Annie Froeschner commented, with regards to 19 CSR 100-1.110(3)(A)2., "A bachelor's degree should not be required to work at a testing facility. There are associate's degrees and certificates that prepare candidates for positions in laboratories. Having experience performing work in a lab is just as, if not more, valuable than obtaining a degree. This regulation forces a discriminatory hiring practice.
This should read "Analysts processing marijuana samples, or overseeing the processing of marijuana samples, must have a combination of education, experience, and training equivalent to a bachelor's degree in a natural science, such as biology, chemistry, physics, engineering, or environmental sciences'."
RESPONSE: As provided in response to Comment #1, 19 CSR 100-1.110(2)(A)2. has been revised to include an alternative experience qualification.

COMMENT #11: Annie Froeschner commented, with regards to 19 CSR 100-1.110(3)(C), "This is way too often. ISO 17043 only requires proficiency testing to be performed every other year. In addition, this testing costs at least $16,000 in the proficiency tests alone, not considering the labor and loss of profit as PTs are being performed in place of customer samples. This should be reduced to either every other year or annually at most."
RESPONSE: As provided in response to Comment #7, 19 CSR 100-1.110(3)(C) has been amended to change the requirement from twice per year to once per year.

COMMENT #12: Annie Froeschner commented, with regards to 19 CSR 100-1.110(3)(D)1., "There is no way to prohibit degradation. Instead of "prohibits", this sentence should read "prevents"."
RESPONSE: As provided in response to Comment #9, the word "prohibits" has been revised to read "prevents" as suggested.

COMMENT #13: Sarah Schappe commented, "1.110(4)(B)– Because these rules (AOAC International methods 2017.001, 2017.002 and 2017.019) are statements of general applicability the Department will be enforcing, they need to be incorporated by reference. These need incorporated by reference."
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.110(4)(B) has been revised to incorporate these standards by reference.

COMMENT #14: Jennifer Rhoads, Gini Fite, and David Mason indicate that in the list of "Testing of the cannabinoid profile of the final marijuana product" delta 8 tetrahydrocannabinol is not currently listed as requirement for testing. However,

"delta 8 tetrahydrocannabinol per serving/dose, listed in milligrams" is a requirement under Proposed Rule: Packaging, Labeling, and Product Design. In order for the Proposed Rules to be consistent, the department may consider adding delta 8 tetrahydrocannabinol to the testing profile requirements.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.110(7)(E) has been revised to include delta 8.

COMMENT #15: Philip Sarff provided multiple comments regarding 19 CSR 100-1.110, however he commented upon the emergency rules rather than the proposed rules. The emergency rules that were set forth were the same rules as the rules that were rescinded on February 3, 2023, and did not include any new changes. The proposed rules are significantly different from the emergency rules and as such trying to translate Mr. Sarff's comments to the proposed rules is not possible.
RESPONSE: This comment did not suggest changes to the rule. No changes have been made to the proposed rule as a result of this comment.

COMMENT #16: JB Waggoner provided multiple comments regarding 19 CSR 100-1.110, however he commented upon the emergency rules rather than the proposed rules. The emergency rules that were set forth were the same rules as the rules that were rescinded on February 3, 2023, and did not include any new changes. The proposed rules are significantly different from the emergency rules and as such trying to translate Mr. Waggoner's comments to the proposed rules is not possible.
RESPONSE: This comment did not suggest changes to the rule. No changes have been made to the proposed rule as a result of this comment.

COMMENT #17: Natalie Brown requests that the department reanalyze the requirement in 19 CSR 100-1.110(3)(D)1. that sample material be stored in a way that prohibits sample degradation as there is a lot of science behind "sample degradation" that is not defined and thus left up to opinion.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.110(3)(D)1 was amended to "prevent" sample degradation.

COMMENT #18: Andrew Mullins suggests deleting 19 CSR 100-1.110(6)(E)5.J.
RESPONSE: Mullins proposes deleting a record of "Whether a lot is being re-sampled because of a failed mandatory test." Because this information is an important aspect of testing cannabis, no changes have been made to the proposed rule as a result of this comment.

COMMENT #19: Andrew Mullins suggests deleting from 19 CSR 100-1.110(7)(B) "Within Seven (7) days of collecting a sample," and changing to read, "When a test is complete."
"We recommend this change so that results are not rushed, which could compromise quality/accuracy.
Market competition will naturally motivate every lab licensee to process tests and deliver accurate results as soon as possible. We are not aware of any regulatory basis to impose a deadline."
RESPONSE AND EXPLANATION OF CHANGE: In response to this comment, 19 CSR 100-1.110 (7) was revised to increase the turnaround time from seven (7) to ten (10) days. From experience with other states' programs, the labs can become a bottleneck if they do not have time limits, accepting more work than allows for reasonable turnaround times, and that allowing indefinite amount of time that may encourages manipulation of results. There is a rational or compelling interest in being able to hold labs accountable for both the speed of reporting results and that they are following procedures rather than succumbing to pressures to do science for desired results.

COMMENT #20: Jonathan Brace requests that the Department include language in 19 CSR 100-1.110(1)(A) to exclude live plants and seeds from testing as it is not indicative of what the consumer will be using as a final product and there is the potential for living plant composition to change between testing and final sale.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.110(1)(A) was amended to exclude plants and seeds.

COMMENT #21: Andrew Mullins suggest changing the language in 19 CSR 100-1.110(1)(A) to, "Testing licensees shall test all lots of marijuana product produced by marijuana facilities, including prerolls created at dispensary facilities but excluding seeds and plants sold to consumers, qualifying patients, or primary caregivers authorized to cultivate marijuana, before it may be sold for use by a patient or consumer." As living plants cannot be subjected to testing. This would be consistent with the plant sale transaction described in 100-1.180(2)(F)3. which does not reference a requirement to conduct testing.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.110(1)(A) was amended to exclude plants and seeds.

COMMENT #22: Jennifer Rhoads, Gini Fite, and David Mason thank the department for allowing testing licensees to receive products from third parties for testing. This will be an important part of regulating sales of THC products and THC isomers by non-licensed facilities.
RESPONSE: There were no changes to the rule based upon this comment as this comment did not request a rule change.

COMMENT #23: Natalie Brown states that they would need a certain amount of time to comply with 19 CSR 100-1.110(11). "24 hours? 48 hours? Who is required to transport? Requirement to transport would add undue financial burden and might add a couple of days to the process."
RESPONSE: Without notice is critical to ensuring compliance. The rule does not require the testing facility to transport the product. No changes have been made to the proposed rule as a result of this comment.

COMMENT #24: Andrew Lammert suggest adding "other than licensees" behind third parties in 19 CSR 100-1.110(12) to make it clear that we are not talking about facility licensees in this section.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.110(12) was amended to "entities that are not licensed marijuana facilities."

COMMENT #25: Natalie Brown states that it is really unclear who "third party" is in 19 CSR 100-1.110(12)(A). Initially it sounds like a transportation entity, but point 3 below has me scratching my head.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.110(12) was amended to "entities that are not licensed marijuana facilities."

COMMENT #26: Warren Merkel asks the department to amend 19 CSR 100-1.110(3)(A) to read, "Testing facility licensees shall be accredited under International Organization for Standardization/International Electrotechnical Commission standard ISO/IEC 17025 for cannabis testing and any other testing the testing facility performs for marijuana facilities."
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.110(3)(A) was amended to reflect the requested change.

COMMENT #27: Jonathan Brace requests that the department remove (A)1. and 2. from 19 CSR 100-1.110(3)(A) as, "ISO 17025 Accreditation already covers the educational and training requirements to maintain accreditation. Imposing stricter requirements than the certification, and other laboratories, will directly impact the workers currently working and those available in some of the smaller communities. These is no clear definition to what "overseeing the processing" means. This could include sampling and homogenizing or actual extraction. There are no other facility types with educational requirements, while they are preforming may of the same methods."
RESPONSE AND EXPLANATION OF CHANGE: In response to this comment, the requirement listed in 19 CSR 100-1.110(3)(A) was removed.

COMMENT #28: Natalie Brown suggest that the department review the requirement in 19 CSR 100-1.110(3)(A)1. that the laboratory direct have an advanced degree in a natural science. Ms. Brown provides the example of one of the individuals who has worked in regulated testing for almost twenty (20) years and the individuals with advanced degrees that does not inherently ensure that the laboratory director knows what they are doing while people with a bachelors degree and ten (10) years of experience may be more appropriate.
RESPONSE: 19 CSR 100-1.110(3)(A)1. already provides an alternative degree "in a another applicable field with at least 10 years of experience." No changes have been made to the proposed rule as a result of this comment.

COMMENT #29: Andrew Mullins recommends deleting the educational requirements from 19 CSR 100-1.110(3)(A)1. which are unnecessary to perform the jobs. "The ISO certification requirements and process already ensure that the employees have the necessary knowledge, education, experience, and skill to perform the jobs.
Imposing arbitrary educational prerequisites only serves to narrow the pool of eligible candidates, thereby increasing the cost to hire for these positions, making it more difficult to locate employees, and preventing labs from hiring extremely well-qualified and experienced personnel. These concerns would be heightened in rural areas that already have smaller labor pools to select from.
We are not aware of any other laboratory setting in any other industry that imposes similar educational requirements. Nor are we aware of any other state imposing such a requirement on its marijuana industry testing lab licensees.
If DHSS is adamant about imposing this, we would ask that DHSS at least "grandfather in" current lab employees."
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.110(3)(A)1. was amended to permit an alternative requirement of "five (5) years of applicable experience."

COMMENT #30: Natalie Brown suggests making it clearer in 19 CSR 100-1.110(3)(A)2. what the department means by "processing" to make a determination as to whether everyone involved in testing needs a bachelors degree or just one (1) person as well as clarification as to what that word is supposed to mean in general.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.110(3)(A)1 was amended to permit an alternative requirement of "five (5) years of applicable experience" and the term processing was replaced with "sampling and testing."

COMMENT #31: Natalie Brown suggests removing the requirement in 19 CSR 100-1.110(3)(A)2. for an individual to "have at least a bachelor's degree in natural science, such as biology, chemistry, physics, engineering, or environmental sciences" as their ISO 17025 certification has details (section 6.2 Personnel) regarding the training and competency of laboratory personnel.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.110(3)(A)1. was amended to permit an alternative requirement of "five (5) years of applicable experience."

COMMENT #32: Kendra Conti states with regards to 19 CSR 100-1.110(3)(A)2. that there are many jobs that a laboratory technician can perform without specific chemistry/biology/physics degrees. As well, the degree alone does not prepare an analyst for success in the lab. Competence should be left up to the laboratory to prove and checked through ISO and internal audits.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.110(3)(A)1. was amended to permit an alternative requirement of "five (5) years of applicable experience."

COMMENT #33: Andrew Mullins suggests "deleting the educational requirements in 19 CSR 100-1.110(3)(A)2., which are unnecessary to perform the jobs. The ISO certification requirements and process already ensure that the employees have the necessary knowledge, education, experience, and skill to perform the jobs.
Imposing arbitrary educational prerequisites only serves to narrow the pool of eligible candidates, thereby increasing the cost to hire for these positions, making it more difficult to locate employees, and preventing labs from hiring extremely well-qualified and experienced personnel. These concerns would be heightened in rural areas that already have smaller labor pools to select from.
We are not aware of any other laboratory setting in any other industry that imposes similar educational requirements. Nor are we aware of any other state imposing such a requirement on its marijuana industry testing lab licensees.
If DHSS is adamant about imposing this, we would ask that DHSS at least "grandfather in" current lab employees."
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.110(3)(A)1. was amended to permit an alternative requirement of "five (5) years of applicable experience."

COMMENT #34: Warren Merkel states with regards to 19 CSR 100-1.110(3)(B) that "The American National Standards Institute National Accreditation Board (ANAB) supports the proposed rule 19 CSR 100-1.110 Testing. However, we note that there are some editorial inaccuracies with reference to the relevant international standards and organizations. We submit the attached document as comments, containing tracked edits. The most critical of these edits is in (3)(B), which refers to an "International Testing Licensee Accreditation Cooperation". We believe the correct reference, which was included in the Emergency Rule, is to the "International Laboratory Accreditation Cooperation (ILAC)".
We note that (3) (C) requires proficiency testing by an organization that operates in conformance with ISO/IEC 17043. We submit that proficiency testing providers can be accredited by an accreditation body recognized by ILAC, providing assurance that the provider's competency has been assessed in a manner consistent with the accreditation process imposed on the laboratories.
We also note that (3) (C) 1. Requires proficiency testing for all marijuana testing methods performed at the facility. While proficiency testing is a valuable tool, it is unlikely that proficiency testing supplied by providers that operate in conformance with or are accredited to ISO/IEC 17043 offer that full range of tests on a 6-month frequency. If it is offered, the cost would be considerable.
ANAB is an ILAC-recognized accreditation body for both

laboratories and proficiency testing providers, as well as all other types of conformity assessment bodies. We are also active in the development of the relevant ISO/IEC standards. Please do not hesitate to contact us regarding our comments or as a resource on any of these issues."
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.110(3)(B) was amended to reference the International Testing Laboratory Accreditation Cooperation

COMMENT #35: Warren Merkel asks the department to amend 19 CSR 100-1.110(3)(B) to read, "Testing facility licensees shall become fully accredited to the standard set forth by ISO /IEC 17025 by an International Laboratory Accreditation Cooperation (ILAC) recognized accreditation body. Licensees shall achieve such accreditation within one (1) year of the date the licensee receives department approval to operate and shall maintain its accreditation as long as the facility holds a certification."
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.110(3)(B) was amended to reference the International Testing Laboratory Accreditation Cooperation.

COMMENT #36: Jonathan Brace requests the department amend 19 CSR 100-1.110(3)(B)3. to read, "Inspection and audit reports from accrediting body shall be submitted to the department by the testing facility upon request" as Many of these audit reports are sent automatically from the ISO auditing body once they are completed. There is no need to send multiple reports to the state in various draft versions. With the stipulation to report to the state 24 hours after notice of loss, the state will be informed of any issue."
RESPONSE: The department values knowing within twenty-four (24) hours of receipt from the accrediting body. Not all non-conformities will result in a loss of accreditation. Licensees are required to suspend operations for both and for just the non-conformity they must receive written approval from the department prior to beginning operations again. This is so the department has time to assess the non-conformity and determine if it may result in a product health and safety risk. Plus there is usually a remedy period to address non-conformities prior to loss of accreditation. No changes have been made to the proposed rule as a result of this comment.

COMMENT #37: Warren Merkel asks the department to amend 19 CSR 100-1.110(3)(B)3.A. to read, "During any periods of time when a licensee no longer complies with ISO/IEC 17025, the licensee shall not conduct testing of marijuana product, until approved by the department in writing, and may be subject to a fine of up to one thousand dollars ($1000) for every day the facility is not in compliance. Upon return to compliance, the licensee shall not resume testing without department approval."
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.110(3)(B)3.A. was amended to include the suggested language.

COMMENT #38: Jonathan Brace request that 19 CSR 100-1.110(3)(B)3.A. be amended to read, "During any periods of time when a licensee no longer complies with ISO 17025, the licensee shall not conduct testing of marijuana product [remove "until approved by the department in writing"] and may be subject to a fine of up to one thousand dollars ($1000) for every day the facility is not in compliance. Upon return to compliance, the licensee shall not resume testing without department approval, or within 10 days, whichever is shorter." Many times, the department can take an extended time to respond. Adding this stipulation ensures that the industry does not suffer due to the loss of a testing facility for an extended time.
RESPONSE: Loss of ISO accreditation compromises the confidence in mandatory testing, which is the basis for a regulated marijuana market. It is critical that the department verify this has occurred prior to resumption of testing. No changes have been made to the proposed rule as a result of this comment.

COMMENT #39: Andrew Mullins suggests changing the language in 19 CSR 100-1.110(3)(B)3.A. to, "A. During any periods of time when a licensee no longer complies with ISO 17025, the licensee shall not conduct testing of marijuana product. Upon receiving confirmation that its ISO 17025 accreditation has been restored, the licensee shall provide the department with a copy of that confirmation. But the licensee shall not resume testing until it receives department approval or 10 days has passed, whichever is shorter.
In the event ISO certification is temporarily lost and the lab licensee must suspend testing services, the lab will be under intense financial pressure to resume testing. Lab licensees can endure a temporary loss of ISO certification but if it is unable to resume testing within a reasonable time thereafter, it could effectively bankrupt the licensee and drive it out of business.
Accordingly, we recommend the addition of a time frame to ensure the licensee can resume testing services and reestablish cash flow to allow it to survive.
We also recommend deleting the language regarding a $1,000 daily fine for being out of compliance with ISO certification. As noted above, the obligation to stop conducting testing means the licensee will already be suffering massive financial penalties as a result of being forced to cease operations. Piling a $1,000 daily fine on top would be punitive and unduly burdensome."
RESPONSE: Loss of ISO accreditation compromises the confidence in mandatory testing, which is the basis for a regulated marijuana market. It is critical that the department verify this has occurred prior to resumption of testing. The fine is discretionary based on the circumstances. No changes have been made to the proposed rule as a result of this comment.

COMMENT #40: Warren Merkel requests for 19 CSR 100-1.110(3)(B)4. be amended to read, "If a licensee does not receive ISO/IEC 17025 accreditation within one (1) year of the date the licensee receives department approval to operate, the licensee shall not conduct testing of marijuana product and may be subject to a fine of up to one thousand dollars ($1000) for every day the licensee is not in compliance;"
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.110(3)(B)4. was amended to the proposed language.

COMMENT #41: Warren Merkel requests for 19 CSR 100-1.110(3)(C) be amended to read, "Testing facility licensees shall participate in a proficiency testing program provided by an organization that operates in conformance with the requirements of International Organization for Standardization/International Electrotechnical Commission standard ISO/IEC 17043 once every six (6) months after the licensee has received approval to operate."
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.110(3)(C) was amended. The IEC reference is now in (B) above and addresses the substance of the comment.

COMMENT #42: Kendra Conti states with regards to 19 CSR 100-1.110(3)(C) that "with ISO 17025, the requirement is the entire scope spread out over a four year timeframe. The proposed frequency is 8x more frequent than ISO requirements.
The approach as it is currently proposed is unduly burdensome, costing upwards of $40K annually. If the state is requiring inter-laboratory testing of accredited labs within the state, then that testing should replace or at least decrease the necessity for

frequent blind PT testing."
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.110(3)(C) was amended to reduce the proficiency testing from every 6 months to annually.

COMMENT #43: Andrew Mullins states with regards to 19 CSR 100-1.110(3)(C) that "Proficiency testing would be extraordinarily unduly burdensome. The testing lab licensees estimated that it would cost them approximately $50,000 each year to comply with this section. Those costs would be passed on, indirectly, to Missouri patients and consumers. And those higher prices will contradict Amendment 3's goal of eliminating the illegal market.
Proficiency testing is thoroughly covered by ISO and the ISO certification process. Maintaining ISO accreditation already requires proficiency testing. But the time frame is far less burdensome – just once every 2 year period.
ISO 17025 (which includes 17043) spells out the proficiency testing requirements, specifically, in section 7.7.2. By imposing the ISO certification requirement, DHSS does not need to pile additional proficiency testing requirements on the lab licensees.
It is not uncommon for a laboratory to have failed a single analyte when running complex testing panels of 5, 10, or even 60 analytes. ISO 17025 requires that a laboratory participate in an accredited ISO 17034 provided proficiency test, and these are only provided twice per year. How will the licensee be able to repeat PT's when they are only offered twice per year? There are no single PT's for just one analyte, and any repeat testing will be done on a known certified reference material and will no longer be a blind challenge. Consecutive failures of the same analyte would trigger an investigation and repeat testing to ensure the method is applicable for that analyte. By making the lab perform repeat testing for one random error will be burdensome and an expensive cost to the lab when there are multiple variables that must be accounted for."
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.110(3)(C) was amended to reduce the proficiency testing from every 6 months to annually.

COMMENT #44: Amanda Shifflet requests with 19 CSR 100-1.110(3)(C)1. that if not all proficiency testing are available for the required testing there needs to be a caveat for such.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.110(3)(C) was rephrased for clarity. If such tests are still not available under new phrasing, a variance or waiver will be granted on that basis.

COMMENT #45: Jonathan Brace requests that 19 CSR 100-1.110(3)(C)1. be amended to read, "The scope of the proficiency testing shall include at minimum one (1) test for each of the sections of testing outlined in this section" The suppliers of cannabis potency testing do not provide options for all testing methods performed, or product types. For example, they may only offer terpene testing for hemp bud, but no other product type. It will be impossible to meet this regulation as written. Also, this goes far beyond the scope of what is required for ISO 17025.
RESPONSE AND EXPLANATION OF CHANGE: In response to this comment, 19 CSR 100-1.110(3)(C)1. was amended to only apply to "testing required by this rule."

COMMENT #46: Natalie Brown requests for 19 CSR 100-1.110(3)(C)1. that the proficiency testing program prequirement only be required for state required testing rather than all ISO/IEC 17043 requirements.
RESPONSE AND EXPLANATION OF CHANGE: In response to this comment, 19 CSR 100-1.110(3)(C)1. was amended to only apply to "testing required by this rule."

COMMENT #47: Kendra Conti states with regards to 19 CSR 100-1.110(3)(C)1. that this should not include non-mandatory testing of cannabis products, such as testing for hop-latent viroid or other diseases that may impact yield of the plant.
RESPONSE AND EXPLANATION OF CHANGE: In response to this comment, 19 CSR 100-1.110(3)(C)1. was amended to only apply to "testing required by this rule."

COMMENT #48: Natalie Brown request the department reanalyze the required in 19 CSR 100-1.110(3)(C)2. that the facility inform the department at least two (2) months prior to engaging with a provider for proficiency testing.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.110(3)(C)2. was amended to remove the two month notification. The department only be notified prior to engaging with a provider.

COMMENT #49: Jonathan Brace requests that 19 CSR 100-1.110(3)(C)4. be amended to read, "The licensee shall submit copies of proficiency test results to the department upon request."
RESPONSE AND EXPLANATION OF CHANGE: In response to this comment, 19 CSR 100-1.110(3)(C)4. was revised to increase the turnaround time from twenty-four (24) hours to two (2) business days of receipt.

COMMENT #50: Natalie Brown points out with regards to 19 CSR 100-1.110(3)(C)4. that "review and standard internal processes can exceed 24 hours. That regulating "24 hours" could be a significant issue, particularly if received in PM on a Friday." As such, Ms. Brown recommends, "within 2 business days of receipt" in place of twenty-four (24) hours of receipt
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.110(3)(C)4. was amended with the proposed change.

COMMENT #51: Mr. Brace requests that 19 CSR 100-1.110(3)(C)5.A. read, "Suspend mandatory testing of the failed test until an acceptable result is received" When failing a PT test, you do not fail due to one analyte, you fail based on a graded basis. It is possible to fail a single analyte but pass the PT test as whole. The way this is worded would be that even with a passing PT, if you failed an analyte for the PT test, you would need to suspend testing. That is not required, and beyond the scope of ISO 17025. With the new wording any failed PT test will require an investigation and suspension of the entire test.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.110(3)(C)5.A. was amended so that a failed proficiency no longer requires testing to be suspended, but rather the department "may require" testing be suspended.

COMMENT #52: Natalie Brown points out with 19 CSR 100-1.110(3)(C)5.A. that "a good quality programs allows for investigation and reporting for the cause of the failure along with impact assessment (as dictated in B below), but suspension of testing until additional testing is not in line with other ISO related quality programs such as EPA DMR-QA."
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.110(3)(C)5.A. was amended so that a failed proficiency no longer requires testing to be suspended, but rather the department "may require" testing be suspended.

COMMENT #53: Annie Froeschner states with regards to 19 CSR 100-1.110(3)(D) "while there is a requirement for labs to try to maintain the integrity of the samples, the samples will degrade over time as they will not be stored in sealed containers. As the bulk flower is not required to be sampled into the final product container, the sample retained by the lab will no longer be representative of the product on the shelf.

As results for samples are required to be reported within 7 days of receipt, failures will already be determined for the product. If there is an issue with the product on the shelf, a sample of the shelf material should be tested during the investigation, not the original sample. If retains are needed, the cultivator/manufacturer should be required to store their product in the appropriate manner so that it can be re-sampled during investigations as needed. The testing facilities also do not have the storage space for 60 days' worth of sampled products, and this will lead to a larger amount of marijuana being held by testing facilities. The hold time within the lab should be reduced to 30 days."

RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.110(3)(D) was revised to decrease hold time from sixty (60) days to thirty (30) days.

COMMENT #54: Natlie Brown states "with regards to 19 CSR 100-1.110(3)(D) that requiring the testing licesnee to retain all remaining sample materials not used in the testing process for 60 days is too long. Will create a high bioburden risk.

The industry has been crying out that 45 days has been challenging from an inventory space basis, why are we making the situation worse by lengthening?

Sample are not static, 3-4 weeks later there will be changes in cannabinoid profile, moisture content, terpenes, etc.

I recommend 30 days, but definitely no longer than 45."

RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.110(3)(D) was revised to decrease hold time from sixty (60) days to thirty (30) days.

COMMENT #55: Andrew Mullins suggests changing 19 CSR 100-1.110(3)(D) to read, "Testing licensees shall retain all remaining sample material that was not used in the testing process for a minimum of thirty (30) days after testing is complete;"

"We recommend requiring no more than 30 calendar days of storage.

there is no shelf life stability data on these products to indicate they are good beyond 30 days and likely degrade much sooner. At that point, the sample no longer has the same chemical and physical properties as the sample material that was utilized in the test. With passing day, the sample becomes less and less relevant or probative of anything related to the original test results.

As a related matter, the passage of time also renders the remaining sample material irrelevant due to its different storage conditions. The labs store the samples in a manner designed to minimize degradation. But the original process or harvest lot from which the sample was taken is stored in different conditions in a different facility. So with each passing day, the remaining sample's relevance as it relates to the original lot diminishes."

RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.110(3)(D) was revised to decrease hold time from sixty (60) days to thirty (30) days.

COMMENT #56: Andrew Mullins suggests in 19 CSR 100-1.110(3)(D)1. changing the word prohibits to minimizes for sample degradation.

RESPONSE AND EXPLANATION OF CHANGE: Consistent with this suggestion, 19 CSR 100-1.110(3)(D)1. was amended to replace "prohibits" with "mitigates."

COMMENT #57: Andrew Mullins suggests in 19 CSR 100-1.110(3)(D)2. adding the word "the" prior to waste disposal requirements.

RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.110(3)(D)2. was amended per this comment.

COMMENT #58: Jonathan Brace requests "that 19 CSR 100-1.110(3)(E) and 19 CSR 100-1.110(3)(E)1.-3. be deleted in their entirety. This is essentially the same as a PT testing, but without a certified reference lab there is no way to determine who is correct and who isn't. If one lab gets a potency result of 75% and another of 85% how will the state know why this discrepancy was created? Adding this as an additional check vs. the PT's does not make sense and causes undue burden due to costs and time constraints."

RESPONSE AND EXPLANATION OF CHANGE: In response to this comment, 19 CSR 100-1.110(3)(E)4. was added to clarify what the purpose is of the inter-lab results.

COMMENT #59: Annie Froeschner states "with regards to 19 CSR 100-1.110(3)(E) as proficiency testing from third party vendors is already required to verify the accuracy of each testing facility in a non-biased manner, there is no reason to have inter-lab comparison efforts. This not only is a financial and time burden to the testing facilities, it causes animosity between facilities and does not provide the department with any additional information. If the purpose of this addition to the regulation is to investigate laboratories who are providing results that are not in line with the rest, the same could be accomplished by requiring a cultivator/manufacturer to provide all labs with the same sample for analysis. Pulling samples from testing facility storage will no longer be representative of the original harvest batch. Once a sample is opened, microbial and moisture/water activity measurements will no longer be representative after time has passed. Potency also will degrade over time, so measurements taken on day one should not be expected to match measurements taken on day 45. This section should be removed."

RESPONSE: Random inter-lab comparisons are an effective tool to maintain consistent and reliable test results needed for patient and consumer safety. Other states have adopted similar requirements. The department will consider the timing as part of the comparison. No changes have been made to the proposed rule as a result of this comment.

COMMENT #60: Natalie Brown inquires about who would be required to provide the transport for the inter-lab comparison for 19 CSR 100-1.110(3)(E).

RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.110(3)(E) was amended to clarify the licensee receiving the marijuana product is "responsible for the transportation."

COMMENT #61: Natalie Brown states that 19 CSR 100-1.110(3)(E) is a form of "round-robin" testing and proficiency testing serve the same purposes.

RESPONSE: This comment is in the form of a question, without a specific change proposed to the rule. No changes have been made to the proposed rule as a result of this comment.

COMMENT #62: Kendra Conti asks "where will remaining sample material come from for 19 CSR 100-1.110(3)(E), and what is the timing? In some cases, the analyte of concern may break down or dissipate with time."

RESPONSE: This comment is in the form of a question, without a specific change proposed to the rule. The department will consider the timing as part of the comparison. No changes have been made to the proposed rule as a result of this comment.

COMMENT #63: Andrew Mullins suggests "removing 19 CSR 100-1.110(3)(E) and its subparts in their entirety Because this is already covered by ISO certification, this provision would impose undue burdens and advance no rational governmental interest.

There are duplicated verification protocols for Microbiology, C & E. Medicinal Genomics is our Microbiology assay vendor with an AOAC approved method, the manufacturer has strict guidelines to validate their assay through their accrediting body and has completed the necessary validations for the assay. We do not need to reverify lot-to-lot stability, probability of detection analysis, or any study that has already been completed by manufacturer. While we have completed a validation for accuracy, inclusivity/exclusivity, and limit of detection using live organisms, the reportable range does not apply here due to the test being pass/fail for any organism. The concentration of DNA copies for any of the organisms does not apply here since detection is all we need to meet the standard."

RESPONSE: Random inter-lab comparisons are an effective tool to maintain consistent and reliable test results needed for patient and consumer safety. Other states have adopted similar requirements. No changes have been made to the proposed rule as a result of this comment.

COMMENT #64: Amanda Shifflet stated as follows for 19 CSR 100-1.110(3)(E)1., "ISO requires proficiency testing as well. Is there a reason this is needed twice a year? The expense is significant to purchase PTs for every test and matrix type."

RESPONSE: This comment is a question, without a specific change proposed to the proposed. Any burden to share a sample twice year is offset by the regulatory need for consistent and uniform testing. No changes have been made to the proposed rule as a result of this comment.

COMMENT #65: Natalie Brown states that requiring a testing facility receive sample material up to ten times a year pursuant to 19 CSR 100-1.110(3)(E)2. is an excessive burden for each lab to incur at no costs.

RESPONSE: The number represents a reasonable maximum, less than one per month, which is necessary for effective inter-lab comparisons. No changes have been made to the proposed rule as a result of this comment.

COMMENT #66: Kendra Conti asks if 19 CSR 100-1.110(3)(E)3. is addressing a round-robin (inter-lab blind sample) scenario, or a sample failure scenario.

RESPONSE: The rule's language is clear that the department will direct the inter-lab comparison. No changes have been made to the proposed rule as a result of this comment.

COMMENT #67: Annie Froeschner states "with regards to 19 CSR 100-1.110(4)(A) that while there are publications that a method may be based off of, most testing facilities will need to adjust published methods to apply to additional matrices or to suit the equipment available in the lab. Instead of "must use", this section should read "Testing licensees must use testing methods that have been validated [...]" as section (4)(A)3. specifies that test methods must be based on compendia or published methods."

RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.110(4)(A) has been entirely re-worded to address the concerns in this comment.

COMMENT #68: Kendra Conti states "with regards to 19 CSR 100-1.110(4)(A) that at the time labs developed methods, peer-reviewed, standardized methods were not available for all analyses. If validation efforts have been taken, labs should not be forced to change established methods."

RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.110(4)(A) has been entirely re-worded to address the concerns in this comment.

COMMENT #69: Kendra Conti states "with regards to 19 CSR 100-1.110(4)(A) that ISO 17025 accreditation requires and checks validation of methods. It is already required and should not be detailed here."

RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.110(4)(A) has been entirely re-worded to address the concerns in this comment.

COMMENT #70: Andrew Mullins suggests changing the language in 19 CSR 100-1.110(4)(A) to read, "Testing licensees must use published, peer-reviewed testing methods that have been validated for cannabis testing, except those for the cannabinoid profile, in connection with the licensee's ISO 17025 certification."

RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.110(4)(A) has been entirely re-worded to address the substance of the concerns in this comment.

COMMENT #71: Andrew Mullins suggests deleting 19 CSR 100-1.110(4)(A)1. in its entirety and changing it to read, "Verification method protocol reports shall be furnished to the department upon request."

RESPONSE: The department considers pre-reporting to be necessary. No changes have been made to the proposed rule as a result of this comment.

COMMENT #72: Andrew Mullins suggests making 19 CSR 100-1.110(4)(A)1. read, "Verification method protocol reports shall be furnished to the department upon request."

RESPONSE: The department considers pre-reporting to be necessary. No changes have been made to the proposed rule as a result of this comment.

COMMENT #73: Jonathan Brace requests that 19 CSR 100-1.110(4)(A)2. be changed to read, "Submit lab method verification to the department upon request, that includes all the necessary items required for iSO 17025 certification." ISO17025 Already outlines what is required for validations, and are reviewed for all renewals and audits to maintain accreditation. These are additional stipulations that are not required to maintain accreditation.

RESPONSE: The department considers pre-reporting to be necessary. No changes have been made to the proposed rule as a result of this comment.

COMMENT #74: Andrew Mullins suggests "deleting 19 CSR 100-1.110(4)(A)2. in its entirety. Because this is already covered by ISO certification, this provision would impose undue burdens and advance no rational governmental interest.

There are duplicated verification protocols for Microbiology, C & E. Medicinal Genomics is our Microbiology assay vendor with an AOAC approved method, the manufacturer has strict guidelines to validate their assay through their accrediting body and has completed the necessary validations for the assay. We do not need to reverify lot-to-lot stability, probability of detection analysis, or any study that has already been completed by manufacturer. While we have completed a validation for accuracy, inclusivity/exclusivity, and limit of detection using live organisms, the reportable range does not apply here due to the test being pass/fail for any organism. The concentration of DNA copies for any of the organisms does not apply here since detection is all we need to meet the standard."

RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.110(4)(A) has been entirely re-worded to address the substance of the concerns in this comment.

COMMENT #75: Annie Froeschner states "19 CSR 100-1.110(4)

(A)2.A. should allow for practice PTs to be used for this purpose instead of graded, blind PTs. Waiting for a supplier to grade the proficiency test potentially adds a lot of time to completing method verifications."
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.110(4)(A) has been edited such that there is no longer a 19 CSR 100-1.110(4)(A)2.A. Some terms were changed that may address part of the comment. The department determined the rule was necessary for verifying testing processes, therefore no additional changes have been made to the proposed rule as a result of this comment.

COMMENT #76: Natalie Brown states "for 19 CSR 100-1.110(4)(A)2.A. she does not believe that they sell proficiency tests with all analytes and would suggestion would be where analytes with various action limits are shown to have passed. The various action limits help verify that the instrument can read appropriately at various levels."
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.110(4)(A) has been edited such that there is no longer a 19 CSR 100-1.110(4)(A)2.A. Some terms were changed that may address part of the comment. The department determined the rule was necessary for verifying testing processes, therefore no additional changes have been made to the proposed rule as a result of this comment.

COMMENT #77: Andrew Mullins suggests "deleting 19 CSR 100-1.110(4)(A)2.A. in its entirety. Because this is already covered by ISO certification, this provision would impose undue burdens and advance no rational governmental interest.
There are duplicated verification protocols for Microbiology, C & E. Medicinal Genomics is our Microbiology assay vendor with an AOAC approved method, the manufacturer has strict guidelines to validate their assay through their accrediting body and has completed the necessary validations for the assay. We do not need to reverify lot-to-lot stability, probability of detection analysis, or any study that has already been completed by manufacturer. While we have completed a validation for accuracy, inclusivity/exclusivity, and limit of detection using live organisms, the reportable range does not apply here due to the test being pass/fail for any organism. The concentration of DNA copies for any of the organisms does not apply here since detection is all we need to meet the standard."
RESPONSE AND EXPLANATION OF CHANGE: A validation of method prior to use for testing a controlled substance serves a rational government interest of keeping patients and the public safe. The term validation is now used instead of verification. No additional changes have been made to the proposed rule as a result of this comment.

COMMENT #78: Jonathan Brace requests what 19 CSR 100-1.110(4)(A)2.A.–E. be deleted in their entirety. "ISO17025 Already outlines what is required for validations, and are reviewed for all renewals and audits to maintain accreditation. These are additional stipulations that are not required to maintain accreditation."
RESPONSE AND EXPLANATION OF CHANGE: A validation of method prior to use for testing a controlled substance serves a rational government interest of keeping patients and the public safe. The term validation is now used instead of verification. No additional changes have been made to the proposed rule as a result of this comment.

COMMENT #79: Andrew Mullins suggests "deleting 19 CSR 100-1.110(4)(A)2.B. in its entirety. Because this is already covered by ISO certification, this provision would impose undue burdens and advance no rational governmental interest.
There are duplicated verification protocols for Microbiology, C & E. Medicinal Genomics is our Microbiology assay vendor with an AOAC approved method, the manufacturer has strict guidelines to validate their assay through their accrediting body and has completed the necessary validations for the assay. We do not need to reverify lot-to-lot stability, probability of detection analysis, or any study that has already been completed by manufacturer. While we have completed a validation for accuracy, inclusivity/exclusivity, and limit of detection using live organisms, the reportable range does not apply here due to the test being pass/fail for any organism. The concentration of DNA copies for any of the organisms does not apply here since detection is all we need to meet the standard."
RESPONSE AND EXPLANATION OF CHANGE: A validation of method prior to use for testing a controlled substance serves a rational government interest of keeping patients and the public safe. The term validation is now used instead of verification. No additional changes have been made to the proposed rule as a result of this comment.

COMMENT #80: Amanda Shifflet stated as follows for 19 CSR 100-1.110(4)(A)2.C., "(Robustness is not necessary or required per ISO. And robustness on what? Instrument? Sample prep? Standard prep?). There should also be a caveat for methods validated by a third party."
RESPONSE: Robust testing improvise reliability of test results. If licensees are not certain of their obligations, guidance may be issued. No changes have been made to the proposed rules as a result of this comment.

COMMENT #81: Natalie Brown suggests striking 19 CSR 100-1.110(4)(A)2.C. completely as the paragraph is about microbials which is fully covered in 19 CSR 100-1.110(4)(A)2.E.
RESPONSE: Method performance characteristics in 19 CSR 100-1.110(4)(A)2. that may be evaluated to validate a method will vary depending on the intended use of the method, the type of method, and the degree to which it has been previously validated. Criteria listed are meant to serve as guidance for validation protocols and not all areas may be applicable to the method type used at a particular facility. No changes have been made to the proposed rules as a result of this comment.

COMMENT #82: Andrew Mullins suggests deleting 19 CSR 100-1.110(4)(A)2.C. in its entirety. Because this is already covered by ISO certification, this provision would impose undue burdens and advance no rational governmental interest.
"There are duplicated verification protocols for Microbiology, C & E. Medicinal Genomics is our Microbiology assay vendor with an AOAC approved method, the manufacturer has strict guidelines to validate their assay through their accrediting body and has completed the necessary validations for the assay. We do not need to reverify lot-to-lot stability, probability of detection analysis, or any study that has already been completed by manufacturer. While we have completed a validation for accuracy, inclusivity/exclusivity, and limit of detection using live organisms, the reportable range does not apply here due to the test being pass/fail for any organism. The concentration of DNA copies for any of the organisms does not apply here since detection is all we need to meet the standard."
RESPONSE: Method performance characteristics in 19 CSR 100-1.110(4)(A)2. that may be evaluated to validate a method will vary depending on the intended use of the method, the type of method, and the degree to which it has been previously validated. Criteria listed are meant to serve as guidance for validation protocols and not all areas may be applicable to the method type used at a particular facility. No changes have

been made to the proposed rules as a result of this comment.

COMMENT #83: Amanda Shifflett states as follows for 19 CSR 100-1.110(4)(A)2d, "The requirements listed for verifications are not appropriate per ICH guidelines for limits tests. For a limit test, verification requires specificity and detection limit. Recommend saying 'verification per ISO 17025'"
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.110(4)(A) was amended to address concerns, uses term "validation" instead of "verification."

COMMENT #84: Annie Froeschner states with regards to 19 CSR 100-1.110(4)(A)2D the limit of detection incorporates the analytical sensitivity of the method. Analytical sensitivity is not relevant for these methods. It should be removed from the list."
RESPONSE: Method performance characteristics in 19 CSR 100-1.110(4)(A)2.D. that may be evaluated to validate a method will vary depending on the intended use of the method, the type of method, and the degree to which it has been previously validated. Criteria listed are meant to serve as guidance for validation protocols and not all areas may be applicable to the method type used at a particular facility. No changes have been made to the proposed rules as a result of this comment.

COMMENT #85: Natalie Brown points out for 19 CSR 100-1.110(4)(A)2.D. that "analytical sensitivity" appears twice in this paragraph.
RESPONSE AND EXPLANATION OF CHANGE: The duplicate term has been deleted from 19 CSR 100-1.110(4)(A)2.D.

COMMENT #86: Andrew Mullins suggests deleting 19 CSR 100-1.110(4)(A)2.D. in its entirety. Because this is already covered by ISO certification, this provision would impose undue burdens and advance no rational governmental interest.
"There are duplicated verification protocols for Microbiology, C & E. Medicinal Genomics is our Microbiology assay vendor with an AOAC approved method, the manufacturer has strict guidelines to validate their assay through their accrediting body and has completed the necessary validations for the assay. We do not need to reverify lot-to-lot stability, probability of detection analysis, or any study that has already been completed by manufacturer. While we have completed a validation for accuracy, inclusivity/exclusivity, and limit of detection using live organisms, the reportable range does not apply here due to the test being pass/fail for any organism. The concentration of DNA copies for any of the organisms does not apply here since detection is all we need to meet the standard."
RESPONSE AND EXPLANATION OF CHANGE: In response to this comment, 19 CSR 100-1.110(4)(A) was amended to say "where feasible" instead of "at a minimum."

COMMENT #87: Annie Froeschner states 19 CSR 100-1.110(4)(A)2.E. is redundant to (4)(A)2.C. and should be removed.
RESPONSE: In response to this comment, 19 CSR 100-1.110(4)(A)2.E. was amended to say "where feasible" instead of "at a minimum."

COMMENT #88: Natalie Brown states "that validation requirements in 19 CSR 100-1.110(4)(A)2E are way more specific than the testing requirements (a poorly defined limit test of "detectable in 1 gram"). More importantly there are aspects referenced here that would not be achievable if one were using a standard microbial plating method. As such, Ms. Brown recommends truncating to appropriate limit test requirements that could be achieved by an industry standard microbial plating method."
RESPONSE AND EXPLANATION OF CHANGE: In response to this comment, 19 CSR 100-1.110(4)(A)2.E. was amended to say "where feasible" instead of "at a minimum."

COMMENT #89: Andrew Mullins suggests deleting 19 CSR 100-1.110(4)(A)2.E. in its entirety. Because this is already covered by ISO certification, this provision would impose undue burdens and advance no rational governmental interest.
"There are duplicated verification protocols for Microbiology, C & E. Medicinal Genomics is our Microbiology assay vendor with an AOAC approved method, the manufacturer has strict guidelines to validate their assay through their accrediting body and has completed the necessary validations for the assay. We do not need to reverify lot-to-lot stability, probability of detection analysis, or any study that has already been completed by manufacturer. While we have completed a validation for accuracy, inclusivity/exclusivity, and limit of detection using live organisms, the reportable range does not apply here due to the test being pass/fail for any organism. The concentration of DNA copies for any of the organisms does not apply here since detection is all we need to meet the standard."
RESPONSE AND EXPLANATION OF CHANGE: In response to this comment, 19 CSR 100-1.110(4)(A)2.E. was amended to say "where feasible" instead of "at a minimum."

COMMENT #90: Natalie Brown states "with regards to 19 CSR 100-1.110(4)(A)3. that with a few exceptions, it is not generally the case that there are published AOAC or other methods for the Missouri required tests."
RESPONSE AND EXPLANATION OF CHANGE: The requirement found in 19 CSR 100-1.110(4)(A)3 has been removed.

COMMENT #91: Andrew Mullins suggests changing 19 CSR 100-1.110(4)(A)3. to read, "All test methods must produce data in a format that meets scientific and regulatory standards."
RESPONSE AND EXPLANATION OF CHANGE: The requirement found in 19 CSR 100-1.110(4)(A)3. has been removed.

COMMENT #92: Amanda Shifflett stated as follows for 19 CSR 100-1.110(4)(A)3.E., "This is a limits test. Accuracy and reportable range are not applicable. This is also repetitive as part C discusses micro methods. In general, ISO outlines what is needed for method verification and validation. Adding these additional inaccurate requirements should be removed. Wording for all validation verification should be 'per ISO 17025'."
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.110(4)(A) amended to address concern. "Verification" changed to "validation". Additional changes were made throughout 19 CSR 100-1.110(4) to address the substance of the comment.

COMMENT #93: Natalie Brown states with regards to 19 CSR 100-1.110(4)(B) "that "must follow the AOAC International Methods 201.001, 2017.002, and 2017.019" reads as though the reference methods are prescriptive methods that everyone can commonly follow to get the same results. These methods say "Any analytical technique(s) that measure that analytes of interest and meets the following method performance requirements is/are acceptable.' THere are two different AOAC methods for dry flower/oils, but these are not them. Additionally, as noted above, the testing method validation requirements listed in 19 CSR 100-1.110(4)(A)2.D. are not aligned with the validation criteria listed in these methods."
RESPONSE AND EXPLANATION OF CHANGE: The requirement found in 19 CSR 100-1.110(4)(B) has been removed.

COMMENT #94: Natalie Brown states "that while 19 CSR 100-

1.110(5)(A) sounds great, it is a little too vague. Particularly when using "a way that prevents", which suggests there is a known manner that would provide complete inhibition. Suggests changing the language to read, "in a manner that is appropriate to reduce risks of contamination and degradation."
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.110(5)(A) was modified to say "mitigates" rather than "prevents".

COMMENT #95: Amanda Shifflett inquires as to why the sample is so large in 19 CSR 100-1.110(5)(B)1.
RESPONSE: This comment is not requesting a change to the rules but rather asks questions about the rules. The sampling is consistent with previous medical rules. No changes have been made to the proposed rules as a result of this comment.

COMMENT #96: Amanda Shifflett states with regards to 19 CSR 100-1.110(5)(B)2., "Sampling amounts – Labs should not be holding this much product. We will never need 32g or 20g for testing. The cap should be much lower. Enough to retest once (remediate) if required. Suggest perhaps 15g max for any product type for labs. OR as determined by testing facility not to exceed X amount. If the issue is having a large enough sample size to be representative, that can be done by sampling different points throughout the plant or batch. Alternatively, a large sample size could be pulled and stored by the manufacturer or cultivator, and held as needed for additional testing. OR, Ideally, the maximum allowable batch size needs to be lowered."
RESPONSE: After considering the comment, the numbers remain unchanged as they are identical to the previous medical rules and are consistent with testing norms in other states. No changes have been made to the proposed rules as a result of this comment.

COMMENT #97: Natalie Brown states "that 19 CSR 100-1.110(5)(B)2 currently suggests a change from previous rules such that that Cartridges, prerolls and infused prerolls will be segmented and tested on a "weight of lot" basis instead of a "number of units" produced basis.
The vape cartridges present a huge challenge to this concept as the weight of unit is large compared to the weight of cannabis product inside. 5 lbs of vape pens might only require a single 16 g vape pen to be sampled (which isn't even remotely enough).
I would highly recommend that vape cartridges, prerolls and infused prerolls be tested via the number of units table instead."
RESPONSE: After considering the comment, the numbers remain unchanged as they are identical to the previous medical rules and are consistent with testing norms in other states. No changes have been made to the proposed rules as a result of this comment.

COMMENT #98: Natalie Brown suggests changing the table in 19 CSR 100-1.110(5)(B)2. to read in grams rather than in kilograms.
RESPONSE: After considering the comment, the numbers remain unchanged as they are identical to the previous medical rules and are consistent with testing norms in other states. No changes have been made to the proposed rules as a result of this comment.

COMMENT #99: Natalie Brown suggests with 19 CSR 100-1.110(5)(B)4. that vape cartridges, prerolls and infused prerolls be tested via the number of units table instead of weight.
RESPONSE: After considering the comment, the numbers remain unchanged as they are identical to the previous medical rules and are consistent with testing norms in other states. No changes have been made to the proposed rules as a result of this comment.

COMMENT #100: Jonathan Brace provides the following comment for 19 CSR 100-1.110(5)(B)4. but not necessarily a request for a change, "Many manufacturers create a bulk product that they then package into separate sizes. For instance, creating a bulk flavored oil that then gets packaged as 35mg, 500mg, 1000mg vapes. They have expressed there is a substantial loss of money due to needing to test the product 3 different times even though in bulk form it would only require one test."
RESPONSE: The comment is not a suggestion for a rule change, but a general observation. No changes have been made to the proposed rules as a result of this comment.

COMMENT #101: Natalie Brown asks "whether 19 CSR 100-1.110(5)(B)4. means that "gramed" out concentrate material is not needed anymore? Can sample from bulk containers for that?"
RESPONSE: The comment is not a suggestion for a rule change, but is phrased as a question. No changes have been made to the proposed rules as a result of this comment.

COMMENT #102: Kendra Conti requests clarification and definition on 19 CSR 100-1.110(5)(C)1. There could be a big difference between desiccate and dry.
RESPONSE: Desiccate is a commonly understood term and is used instead of dry. No changes have been made to the proposed rules as a result of this comment.

COMMENT #103: Natalie Brown asks "No R&D?" in 19 CSR 100-1.110(5)(C)2.
RESPONSE: The comment is a question rather than a suggested rule change. A testing facility may conduct other tests outside of the mandatory testing procedure that should cover the question. No changes have been made to the proposed rules as a result of this comment.

COMMENT #104: Andrew Lammert suggests "removing assist with, or otherwise participate" in 19 CSR 100-1.110(6)(A) claiming it is vague and ambiguous.
RESPONSE: The term stresses the importance of non-interference by other licensees. No changes have been made to the proposed rules as a result of this comment.

COMMENT #105: Natalie Brown asks for clarification on how the sample collection is verified in 19 CSR 100-1.110(6)(B).
RESPONSE: The comment is a question rather than a suggested rule change. The rule requires what other licensees must make available to the testing licensee. No changes have been made to the proposed rules as a result of this comment.

COMMENT #106: Natalie Brown states "for 19 CSR 100-1.110(6)(E) that most LIMs systems have a formal Chain of Custody (CoC), but many of the items below are describing thing present on the Sample Manifest and not the CoC. I would recommend either making it 1) Manifest or 2) Manifest/Chain of Custody."
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.110(6)(E) was amended to include the term "chain of custody" to partially address the nature of this comment.

COMMENT #107: Natalie Brown states "for 19 CSR 100-1.110(6)(E)1.-5.L. that all but point C and D are already on the metrc transport manifest. Adding all of this to the chain of custody seems very redundant. My suggestion would be to add C and D to the transport manifest and not the chain of custody."

RESPONSE: There is regulatory value to having this information also in a chain of custody in addition to METRC. No changes have been made to the proposed rules as a result of this comment.

COMMENT #108: Natalie Brown states that 19 CSR 100-1.110(6)(E)5.G. is a repeat of 19 CSR 100-1.110(6)(E)5.D.
RESPONSE: The two (2) requirements are different. One is for sample, and the other is for sale. No changes have been made to the proposed rules as a result of this comment.

COMMENT #109: Jonathan Brace requests that "19 CSR 100-1.110(6)(E)5.J. and K. be removed in their entirety. Adding this information could skew the bias of a lab. Telling a second lab that this failed for a certain test could potentially have them questioning results as opposed to providing nonbiased results."
RESPONSE: The department disagrees this will create inherit bias if a testing licensee is following protocols of this chapter. The chain of custody record a necessary additional way to verify whether facilities proceed with remediation before getting approval for it. No changes have been made to the proposed rules as a result of this comment.

COMMENT #110: Kendra Conti asks if the information in 19 CSR 100-1.110(6)(E)5.J. is relevant to chain of custody or to testing.
RESPONSE: The chain of custody record a necessary additional way to verify whether facilities proceed with remediation before getting approval for it. No changes have been made to the proposed rules as a result of this comment.

COMMENT #111: Kendra Conti asks if the information in 19 CSR 100-1.110(6)(E)5.K. is relevant to chain of custody or to testing.
RESPONSE: The chain of custody record a necessary additional way to verify whether facilities proceed with remediation before getting approval for it. No changes have been made to the proposed rules as a result of this comment.

COMMENT #112: Natalie Brown suggested adding "dummy proof" tables in 19 CSR 100-1.110(6)(G)1. for this process and including the following language, "Lab test batches shall be selected by the cultivation or manufacturing facility when creating a test sample based on the product type of the item of the source package that was sampled and being tested in the state wide track and trace system. The facility is to select the appropriate lab test batch for the product type according to one of the following categories:"
RESPONSE: Such a process may be beneficial, but is not necessary to incorporate into the rule. No changes have been made to the proposed rules as a result of this comment.

COMMENT #113: Andrew Lammert requests that we review the mandatory testing requirements in 19 CSR 100-1.110(6)(G)4.
RESPONSE AND EXPLANATION OF CHANGE: The term "mandatory" has been removed from 19 CSR 100-1.110(6)(G)4.

COMMENT #114: Natalie Brown questions what 19 CSR 100-1.110(6)(G)4. means, stating "that it would seem to suggest that non-mandatory tests (terpines, R&D, etc.) could not be ordered."
RESPONSE AND EXPLANATION OF CHANGE: The term "mandatory" has been removed from 19 CSR 100-1.110(6)(G)4.

COMMENT #115: Natalie Brown suggests that the department review the fine of up to $100,000 in 19 CSR 100-1.110(6)(H) as it is a huge fine cap for how vague some of the language is and large the current gaps are."
RESPONSE: Given the importance of testing in a regulated market, a fine of this amount is appropriate ensure compliance. No changes have been made to the proposed rules as a result of this comment.

COMMENT #116: Jonathan Brace requests that 19 CSR 100-1.110(6)(J) be removed in its entirety. This is not possible if you are testing in bulk. If you test a product in bulk, you will need to repackage it in order to sell.
RESPONSE: The rule is in reference to product batches being used in the state-wide track and trace system rather than in reference to production lot. No changes have been made to the proposed rules as a result of this comment.

COMMENT #117: Natalie Brown asks with regards to 19 CSR 100-1.110(6)(K) whether COAs are currently required.
RESPONSE: A COA is an expected practice for any lab. No changes have been made to the proposed rules as a result of this comment.

COMMENT #118: Amanda Shifflett states with regards to 19 CSR 100-1.110(7)(B), "Why is there a required turn around time? That is a business throughput issue, not a compliance issue and should not be included. There is no reason to enforce this type of requirement on testing facilities when it is not enforced on any other license type. This is also a way to show priority to the labs that have more money, more instruments and more analysts."
RESPONSE AND EXPLANATION OF CHANGE: In response to this comment, 19 CSR 100-1.110 (7) was revised to increase the turnaround time from seven (7) to ten (10) days. From experience with other states' programs, the labs can become a bottleneck if they do not have time limits, accepting more work than allows for reasonable turnaround times, and that allowing indefinite amount of time that may encourages manipulation of results. There is a rational or compelling interest in being able to hold labs accountable for both the speed of reporting results and that they are following procedures rather than succumbing to pressures to do science for desired results.

COMMENT #119: Jonathan Brace request that 19 CSR 100-1.110 (7)(B) be amended to read, "When testing is complete the testing facility shall file a report in the statewide track and trace system detailing, at a minimum:" The seven (7) day turn-around, along with not being able to discuss results with clients, forces labs to enter results for compliance that may not have been tested correctly or meets the lab quality standards. The turn around time should be a business decision and the labs can hold each other accountable. Being able to discuss results with clients helps the lab troubleshoot potential issues with testing methods prior to submission – and potentially causing false holds or fails.
Lastly, testing three (3) samples and also needing to homogenize the product is redundant. Testing three (3) samples is a homogeneity test. The stipulation about the fifteen percent (15%) works for analytes with higher percentages, but some of the minor cannabinoids will fluctuate more than that. For instance, if an analyte is five tenths percent (0.5%) getting a result at four tenths percent (0.4%) would be outside the stipulation.
RESPONSE AND EXPLANATION OF CHANGE: In response to this comment, 19 CSR 100-1.110 (7) was revised to increase the turnaround time from seven (7) to ten (10) days. From experience with other states' programs, the labs can become a bottleneck if they do not have time limits, accepting more work than allows for reasonable turnaround times, and that allowing indefinite amount of time that may encourages manipulation of results. There is a rational or compelling

interest in being able to hold labs accountable for both the speed of reporting results and that they are following procedures rather than succumbing to pressures to do science for desired results.

COMMENT #120: Kendra Conti states with regards to 19 CSR 100-1.110(7)(B) that grace should be given for recognized holidays.
RESPONSE AND EXPLANATION OF CHANGE: In response to this comment, 19 CSR 100-1.110(7) was revised to increase the turnaround time from seven (7) to ten (10) days.

COMMENT #121: Annie Froeschner states "with regards to 19 CSR 100-1.110(7)(B) The amount of time needed to return results for a sample is a crucial business attribute for a testing facility and is a main source of competition for business between labs. Removal of this regulation would not increase sample turnaround time significantly, as cultivators/manufacturers would still expect results as soon as possible, but it would allow testing facilities the time to ensure that no testing is rushed to meet a deadline and would also allow for instrument issues, staffing issues, and severe weather to not require a variance from the state."
RESPONSE AND EXPLANATION OF CHANGE: In response to this comment, 19 CSR 100-1.110(7) was revised to increase the turnaround time from seven (7) to ten (10) days.

COMMENT #122: Amanda Shifflett states with regards to 19 CSR 100-1.110(7)(B)1., "This currently cannot be added to METRC and therefore should not be in the rules until such time as it can be added."
RESPONSE AND EXPLANATION OF CHANGE: In response to this comment, 19 CSR 100-1.110(7) was revised to increase the turnaround time from seven (7) to ten (10) days.

COMMENT #123: Amanda Shifflett states with regards to 19 CSR 100-1.110(7)(B)2., "This currently cannot be added to METRC and therefore should not be in the rules until such time as it can be added."
RESPONSE: Such capabilities, if not currently available, will be so when the rule goes into effect. No changes have been made to the proposed rule as a result of this comment.

COMMENT #124: Kendra Conti states that this has not been required in the past and questions whether the COA will be uploaded to Metrc with regards to 19 CSR 100-1.110(7)(B)2.
RESPONSE: Capabilities will be available upon effective date of this rule. No changes have been made to the proposed rule as a result of this comment

COMMENT #125: Andrew Mullins suggests deleting 19 CSR 100-1.110(7)(B)2. in its entirety.
"These provisions are problematic, as Metrc currently does not allow lab licensees the functionality/capability to actually comply with these provisions.
Moreover, we are not aware of any policy reason to impose these additional requirements on lab licensees."
RESPONSE: Capabilities will be available upon effective date of this rule. No changes have been made to the proposed rule as a result of this comment

COMMENT #126: Kendra Conti states with regards to 19 CSR 100-1.110(7)(B)3. that this has not been required in the past and questions whether the photo will be uploaded to METRC.
RESPONSE: Capabilities will be available upon effective date of this rule. No changes have been made to the proposed rule as a result of this comment

COMMENT #127: Andrew Mullins suggests deleting 19 CSR 100-1.110(7)(B)3. in its entirety.
"These provisions are problematic, as Metrc currently does not allow lab licensees the functionality/capability to actually comply with these provisions.
Moreover, we are not aware of any policy reason to impose these additional requirements on lab licensees."
RESPONSE: Capabilities will be available upon effective date of this rule. A photo helps ensure the product that was tested is the correct product and in the correct form. No changes have been made to the proposed rule as a result of this comment.

COMMENT #128: Jonathan Brace requests that 19 CSR 100-1.110 (7)(C) be removed in its entirety. "The seven (7) day turn-around, along with not being able to discuss results with clients, forces labs to enter results for compliance that may not have been tested correctly or meets the lab quality standards. The turn around time should be a business decision and the labs can hold each other accountable. Being able to discuss results with clients helps the lab troubleshoot potential issues with testing methods prior to submission – and potentially causing false holds or fails.
Lastly, testing three (3) samples and also needing to homogenize the product is redundant. Testing three (3) samples is a homogeneity test. The stipulation about the 15% works for analytes with higher percentages, but some of the minor cannabinoids will fluctuate more than that. For instance, if an analyte is five tenth percent (0.5%) getting a result at 0.4% would be outside the stipulation."
RESPONSE AND EXPLANATION OF CHANGE: In response to this comment, 19 CSR 100-1.110(7) was revised to increase the turnaround time from seven (7) to ten (10) days.

COMMENT# 129: Annie Froeschner states "the requirement in 19 CSR 100-1.110(7)(C), combined with the requirement to enter all results at the same time, can lead to bad business relations between testing facilities and cultivators/manufacturers. If a test fails, delaying the information until all testing is complete and entered into METRC prevents manufacturers from being proactive in their decisions to either retest, remediate, or dispose of batches. The cultivator hears from a computer system instead of from a customer service representative, which drives a wedge between them and the testing facility. Discussion between the testing facility and the manufacturer can also prevent future issues from arising.
Reporting of any results to the originating facility prior to reporting in the statewide track and trace system must have a written record of the results being reported that precedes or coincides with any verbal communication of the results."
RESPONSE AND EXPLANATION OF CHANGE: In response to this comment, 19 CSR 100-1.110(7) was revised to increase the turnaround time from seven (7) to ten (10) days.

COMMENT #130: Natalie Brown states "that while continue to maintain that testing timeframes should not be a regulatory requirement as set forth in 19 CSR 100-1.110(7)(C), but rather a business differentiating factor, I would recommend defining as business days, otherwise could be interpreted as calendar days and 7 calendar days wont work as over thanksgiving and often christmas, where there can often be only 3 business days in a 7 calendar day period (3 days sometimes not enough time to test, review and report)."
RESPONSE AND EXPLANATION OF CHANGE: In response to this comment, 19 CSR 100-1.110(7) was revised to increase the turnaround time from seven (7) to ten (10) days.

COMMENT #131: Natalie Brown states that she does not believe it is necessary to file a photo of the sample received at the

facility as required by 19 CSR 100-1.110(7)(C)3. and that it is burdensome.
RESPONSE: A photo helps ensure the product that was tested is the correct product and in the correct form. No changes have been made to the proposed rule as a result of this comment.

COMMENT #132: Amanda Shifflett inquires about clarification on 19 CSR 100-1.110(7)(E), "Please confirm that we will be correcting the cannabinoid value for moisture content obtained during moisture content testing. Also confirm this is for flower only. Cannabinoid value cannot be on a dried basis for infused products or concentrates."
RESPONSE: This comment is of a general nature, without a specific change proposed to the rule. No changes have been made to the proposed rule as a result of this comment.

COMMENT #133: Jonathan Brace requests for 19 CSR 100-1.110(7)(E) that "The acceptable limits for each analyte will be a percentage deviation from the mean, using at least three (3) samples, in concentration throughout the lot of fifteen percent (15%) or less:" be removed from (7)(E). "The seven (7) day turn-around, along with not being able to discuss results with clients, forces labs to enter results for compliance that may not have been tested correctly or meets the lab quality standards. The turn around time should be a business decision and the labs can hold each other accountable. Being able to discuss results with clients helps the lab troubleshoot potential issues with testing methods prior to submission – and potentially causing false holds or fails.
Lastly, testing three (3) samples and also needing to homogenize the product is redundant. Testing three (3) samples is a homogeneity test. The stipulation about the fifteen percent (15%) works for analytes with higher percentages, but some of the minor cannabinoids will fluctuate more than that. For instance, if an analyte is five tenth percent (0.5%) getting a result at four tenth percent (0.4%) would be outside the stipulation."
RESPONSE AND EXPLANATION OF CHANGE: In response to this comment, 19 CSR 100-1.110(7) was revised to increase the turnaround time from seven (7) to ten (10) days in addition to other modifications to address the comment.

COMMENT #134: Annie Froeschner states 19 CSR 100-1.110(7)(E) "-This list of cannabinoids does not correspond with the list of cannabinoids provided in 19CSR100-1.120 Section (1)(C)2.I. If all eight that are listed in the packaging section are correct, then this section needs to be updated to reflect that all eight must be tested.
-The limit of 15% deviation is too low for analytes that are at a low concentration in the sample. For a sample containing 0.1% of an analyte, results can only be off by 0.015%. For a sample containing 1%, results meet the requirement provided they are within 0.15%. Test methods are usually not capable of being accurate within 0.015%, but 0.15% is a more reasonable expectation. The section should either read that the 15% requirement is for analytes above 1% in the finished product, or should only apply to the total cannabinoids result.
-Reporting potency results on a dry weight basis will lead to incorrect patient dosing unless moisture is also listed on the label of the product. Consumers do not dry their product prior to weighing out the correct amount for the needed dose. For example, if a product is listed as 20% THC-A, and the dose is 5 mg, a caregiver would portion out 25 mg of product. If the reported result was based off of a 10% moisture content result, then the 25 mg actually only contains 4.5 mg of THC-A. If the reported result was based off of the highest moisture content allowed, 15.0% in these proposed rules, then the 25 mg portion only contains 4.25 mg of THC-A.
-Testing three samples after the homogenization process will not provide any information as to the uniformity of the lot; it would only test the precision of the method. Either three samples should be pulled from the bulk sample and tested, or the homogenized sample should only be tested once."
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.110(7)(E) was amended to add cannabinoids required to be on the label in 19 CSR 100-1.120. The term "homogenization" was also removed.

COMMENT #135: Ms. Shifflet states with regards to 19 CSR 100-1.110(7)(E), "The 15% will be impossible to meet for the cannabinoids that are very low. One suggestion would be, rather than the requirement being per analyte, it should be a total of all cannabinoids. However, the purpose of this is ultimately unclear. Cannabinoid results can range even within the same plant (top vs bottom). This seems like it's trying to make the testing lab force an accuracy of labeling that doesn't exist. Moreover, if the idea is to homogenize prior to performing this testing, and using the homogenized sample, then this is a test of the method and analyst accuracy, and has little to do with the actual product. For flower, I suggest not homogenizing. Using three different parts of the flower and changing the requirement to either report the average of the three with no percent deviation requirement, or, if one is needed, it should be a higher percentage and be for total cannabinoids (rather than single analyte). Ultimately, as the cannabinoid value of flower is not going to match even with the same plant, the requirement should be studied further to understand purpose and potential variability within any given flower batch before assigning requirements."
RESPONSE AND EXPLANATION OF CHANGE: This comment touches on many rule sections. The term "homogenizing" was removed from the rule and addresses many of the concerns. For the issue of cannabinoids, this part of the rule is consistent with testing in marijuana in Michigan (of which Article XIV is largely modeled) therefore no additional changes will be made to 19 CSR 100-1.110(7)(E).

COMMENT #136: Kendra Conti requests clarification on the term "a dry weight basis" in 19 CSR 100-1.110(7)(E). "In other industries, 'dry-weight basis' requires the sample to be dried ahead of analysis. If sample must be dried at laboratory, further guidance is required. If 'dry-weight basis' refers to product as-received from the cultivator, and as such the lab is disallowed from drying, this should be explicitly stated."
RESPONSE AND EXPLANATION OF CHANGE: Additional clarity for dry weight basis was added to 19 CSR 100-1.110(7)(E), such as unprocessed marijuana, prerolls, and other marijuana product.

COMMENT #137: Kendra Conti suggests "for 19 CSR 100-1.110(7)(E) RSD based on total cannabinoids, or dominant peaks."
RESPONSE: The department believes the methods outlined in this chapter are sufficient, without need to add RSD based on total cannabinoids or dominant peaks. No changes have been made to the proposed rule as a result of this comment.

COMMENT #138: Andrew Mullins recommends that 19 CSR 100-1.110(7)(E) differentiate between different types of final marijuana products (consistent with our proposed addition, above). For example, lab licensees cannot report test results "on a dry weight basis" as to infused beverages."
RESPONSE AND EXPLANATION OF CHANGE: Additional clarity for dry weight basis was added to 19 CSR 100-1.110(7)(E), such as unprocessed marijuana, prerolls, and other marijuana product.

COMMENT #139: Andrew Mullins recommends that the words "if applicable" be placed behind "on a dry weight basis" for 19 CSR 100-1.110(7)(E).
RESPONSE AND EXPLANATION OF CHANGE: Additional clarity for dry weight basis was added to 19 CSR 100-1.110(7)(E), to include "as is" for other marijuana product.

COMMENT #140: Andrew Mullins states "that if DHSS will require testing of homogenized samples as set forth in 19 CSR 100-1.110(7)(E), there is no scientific or policy reason to also have a fifteen percent (15%) deviation tolerance. If the samples have been homogenized, there will be no deviation to measure, because the samples will have been made identical. The fifteen percent (15%) deviation standard would only make sense if the lab licensee is performing multiple tests on separate, unique test quantities taken from the same (non-homogenized) sample.
In our working group, the lab licensees did not reach consensus on which approach was better: (1) multiple tests from one non-homogenized sample (the current approach); or (2) one test taken from a homogenized sample. But there was unanimous agreement that requiring both was illogical and unduly burdensome."
RESPONSE AND EXPLANATION OF CHANGE: The term "homogenized" was removed from 19 CSR 100-1.110(7)(F), thereby addressing the concerns in this comment for 19 CSR 100-1.110(7)(E).

COMMENT #141: Jonathan Brace provides the following note for 19 CSR 100-1.110(7)(E)1.-5.: "The cannabinoids listed are not the same ones required in the labeling sections – such as Delta-8 and THCV. All analytes required for labeling should be listed in this section."
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.110(7)(E) was amended to add cannabinoids required to be on the label in 19 CSR 100-1.120.

COMMENT #142: Natalie Brown states that "if we are keeping the dry weight basis in 19 CSR 100-1.110(7)(F) that it should be on a dry weight basis only for flower and prerolls (dry weight basis has no meaning for units, concentrates)"
RESPONSE AND EXPLANATION OF CHANGE: Additional clarity for dry weight basis was added to 19 CSR 100-1.110(7)(E), to include "as is" for other marijuana product.

COMMENT #143: Natalie Brown states "for 19 CSR 100-1.110(7)(F) that they have been doing 3 sample preparation from the beginning and I love that the department has defined this concept, but there is challenge between "concentration throughout the lot" and the requirement to homogenize below.
If keeping homogenization below, the 3 sample testing here is meaningless."
RESPONSE AND EXPLANATION OF CHANGE: The term "homogenized" was removed from 19 CSR 100-1.110(7)(F).

COMMENT #144: Kendra Conti states "for 19 CSR 100-1.110(7)(F) homogeneity of concentrates should be addressed. We have seen concentrate samples come through that are non-homogeneous. In some cases, samples varied widely within the same lot, with some samples passing and others failing analysis (residual solvents)."
RESPONSE AND EXPLANATION OF CHANGE: The term "homogenized" was removed from 19 CSR 100-1.110(7)(F).

COMMENT #145: Kendra Conti questions for 19 CSR 100-1.110(7)(F) whether moisture content and foreign material increments should also be isolated at this step.
RESPONSE AND EXPLANATION OF CHANGE: Significant changes were made to 19 CSR 100-1.110(7)(F) that likely address the substance of this comment.

COMMENT #146: Amanda Shifflett states for 19 CSR 100-1.110(7)(F)2., "Why? Homogenizing for potency gives vastly different results as the keef sticks to the tube (or other container) used for homogenization. We have found that homogenizing prior to microwave digestion for heavy metals testing is inaccurate and often doesn't fully digest. However, using unhomogenized flower works well. I think understanding the reason for this is paramount to understanding the best way to address the issue. If it's for uniformity of dosage, then the product should NOT be homogenized. That would show method precision rather than dosage precision. See comment above on the triplicate testing requirement. Recommend removing this."
RESPONSE AND EXPLANATION OF CHANGE: In response to this comment, 19 CSR 100-1.110(7)(F)2. was mostly deleted, including the term homogenizing.

COMMENT #147: Amanda Shifflett states for 19 CSR 100-1.110(7)(F)2., "This mentions homogenizing "wraps". Does this mean the paper in a pre-roll? If so, that need should not apply to cannabinoids/potency. Every lab would have to re-develop the flower sample prep to include paper. Moreover, this will lower potency results by including non-flower product in the prep giving false values. If paper requires testing, that should be done separately. Papers should have been previously tested and have a valid CoA prior to manufacturing, which would eliminate the requirement to include the paper in the back-end homogenization and testing. This would also cause false values when correcting for moisture. Moisture would not be done on the paper/wrap. Recommend that the requirement for including wraps be for heavy metals, residual solvents and microbials only. However, if it is homogenized/ground in with the product, and a failing result is obtained, understanding if the failure is the paper or the actual product will be impossible to determine. This again supports the argument that the manufacturer should be required to have a CoA on any wraps used which outlines that it is within state limits for all impurities, prior to manufacturing. This would be achieved by purchasing papers from reputable vendors that have been vetted for compliance. If testing must be done on the back end (NOT RECOMMENDED) then the papers should be tested separately, which, will be an additional cost on the testing facility. It will also require additional methods and validation and potentially instrumentation that the labs don't currently have."
RESPONSE AND EXPLANATION OF CHANGE: In response to this comment, 19 CSR 100-1.110(7)(F)2. was mostly deleted, including the term homogenizing.

COMMENT #148: Annie Froeschner states for 19 CSR 100-1.110(7)(F)2. "A consumer would not include stems, seeds, or leaves when preparing the sample for use, so these items should not be included for potency testing. Including wrap will also reduce the potency result artificially as the weight of the paper will be included in the sample weight. Including these will lead to false results being reported to the patient.
Test methods that are currently published and peer-reviewed do not include wraps in the sample preparation. This means that current methods will not necessarily apply to any product containing a wrap. These wraps should not be considered part of the mandatory testing of the cannabis, and should be a separate test article. Manufacturers/cultivators should have a certificate of analysis for the wraps that show that they meet the residual solvent and heavy metals requirements before they are used on finished product. Wraps are a different matrix

than cannabis and should be treated differently.
An average particle size of 1 mm or less is not feasible, nor is it measurable by the testing facility."
RESPONSE AND EXPLANATION OF CHANGE: Significant changes were made to 19 CSR 100-1.110(7)(F) that likely address the substance of this comment, including clarifying when to include product wrap.

COMMENT #149: Kendra Conti states that with regarding potency in 19 CSR 100-1.110(7)(F)2., if all of the sample is homogenized then there is no potential for testing homogeneity throughout the lot.
RESPONSE AND EXPLANATION OF CHANGE: Significant changes were made to 19 CSR 100-1.110(7)(F) that likely address the substance of this comment, including deletion of homogenizing.

COMMENT #150: Andrew Mullins states for 19 CSR 100-1.110(7)(F)2., "the testing licensees all agree that DHSS should choose either (1) homogenizing samples; or (2) taking three separate samples and ensuring the results on all three fall within a prescribed deviation. If DHSS settles on the approach of having testing licensees perform mandatory testing after homogenizing the samples, we recommend deleting this sentence. Patients and consumers do not consume stems, seeds, wrap, and leaves, so it would make no sense to perform testing on those portions of the plant. Including those portions of the plant would only have the result of artificially depressing the potency test results. This would create a safety concern, in the sense that the product's strength would be misrepresented on the labeling, i.e., because the potency level would be artificially lower, the patient or consumer would be unable to know how much to consume to achieve the desired effect."
RESPONSE AND EXPLANATION OF CHANGE: In response to this comment, 19 CSR 100-1.110(7)(F)2. was mostly deleted, including the term homogenizing.

COMMENT #151: Andrew Mullins suggests deleting from 19 CSR 100-1.110(7)(F)2., "Samples must be homogenized to attain an average particle size of less than 1 millimeter."
RESPONSE AND EXPLANATION OF CHANGE: In response to this comment, 19 CSR 100-1.110(7)(F)2. was mostly deleted, including the term homogenizing.

COMMENT #152: Annie Froeschner states "with regards to 19 CSR 100-1.110(7)(F)2.A., as the sample is being homogenized for all testing except microbials and water activity, it is not possible to only remove the crutch or filter for cannabinoid profile. It is either present during homogenization of the sample, or it is removed prior to homogenization."
RESPONSE AND EXPLANATION OF CHANGE: In response to this comment, 19 CSR 100-1.110(7)(F)2. was mostly deleted, including the term homogenizing.

COMMENT #153: Annie Froeschner states with regards to 19 CSR 100-1.110(7)(F)2.B. "The homogenization laid out in this section of the regulations will adulterate the sample. Kief is sticky, and during homogenization, it will stick to the sides of the container and will therefore not be included in the sampling of the homogenized product, resulting in falsely low potency results. A more accurate result for potency will be obtained by testing three portions of the unhomogenized sample."
RESPONSE AND EXPLANATION OF CHANGE: In response to this comment, 19 CSR 100-1.110(7)(F)2 was mostly deleted, including the term homogenizing.

COMMENT #154: Amanda Shifflett states "with regards to 19 CSR 100-1.110(7)(G)2., "Vitamin E acetate is not a pesticide or chemical residue." If this is to be included, it needs to be in a separate category and will likely need its own separate validated method.
There should also be clarification as to what sample types need to be tested for this additive (i.e. vape cartridges/extracts).
In addition, as this is not a pesticide, and would be damaging to flower, flower would not require testing for Vitamin E. Also, ingesting Vitamin E is safe, so it should not be required for infused products. Vitamin E is used to make oils less viscous, and the danger is in inhaling Vitamin E. It should be clarified that this testing is only for oils/concentrates."
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.110(7)(G)2. was amended to clarify that Vitamin E acetate is "only for inhalables and concentrates."

COMMENT #155: Jonathan Brace requests "that Vitamin E acetate be remove from the table in 19 CSR 100-1.110(7)(G)2. Vitamin E acetate is a regulated substance that is not obtainable on the market. Testing for this particular product is not necessary. There were no regulated cannabis products found with this analyte in it during the investigation/issues that were occurring across the United States."
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.110(7)(G)2. was amended to clarify that Vitamin E acetate is "only for inhalables and concentrates."

COMMENT #156: Annie Froeschner states with regards to 19 CSR 100-1.110(7)(G)2. "-Vitamin E Acetate would not be present in the sample as a chemical residue. It would either have been specifically added to the sample as a diluent, or it would not be present. As there have been zero cases of vitamin E acetate being present in regulated cannabis samples, testing for this substance is not necessary. If a statement is needed about vitamin E acetate, it should be to ban it from use in all Missouri manufacturing facilities.
-If vitamin E acetate remains in the regulation, it should only be a required test for concentrates and oils, as it will never be found in plant material. It should have a separate testing section as it is not a chemical residue. It also should be a separate test in METRC as it will not be included in pesticides analysis, but will require its own test method.
-There are symbols after two of the banned analytes that have no footnote or explanation. Please add."
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.110(7)(G)2. was amended to clarify that Vitamin E acetate is "only for inhalables and concentrates." Additional footnotes were also added.

COMMENT #157: Natalie Brown states "with regards to 19 CSR 100-1.110(7)(G)2. that the goal of three (3) sample testing is to ensure that the results obtained are represented throughout the lot.
If you homogenize collected sample, you lose the ability to observe variances throughout the lot.
You either want to test for variance of the lot OR you want to ensure that the test represents the average of the lot, you can't do both. (and the first one, testing for variances, is more safety oriented)."
RESPONSE AND EXPLANATION OF CHANGE: In response to this comment, 19 CSR 100-1.110(7)(F)2. was mostly deleted, including the term homogenizing.

COMMENT #158: Natalie Brown asks whether the paper also needs to be homogenized for 19 CSR 100-1.110(7)(G)2.
RESPONSE AND EXPLANATION OF CHANGE: In response to this comment, 19 CSR 100-1.110(7)(F)2. as mostly deleted, including

the term homogenizing.

COMMENT #159: Natalie Brown states "with regards to 19 CSR 100-1.110(7)(G)2. that, the use of the word "must" often suggests a requirement to prove that it is done, which would be functionally impossible to prove average particle size, I would recommend "should", not must."
RESPONSE AND EXPLANATION OF CHANGE: The sentence referenced in 19 CSR 100-1.110(7)(G)2. has been deleted.

COMMENT #160: Andrew Mullins suggests deleting Vitamin E Acetate from the 19 CSR 100-1.110(7)(G)2. requirement.
"We recommend deleting this substance from the list. This substances has only ever been found in illegally-manufactured products.
No legitimate, licensed marijuana facility would manufacture a product using this substance. To our knowledge, no product in the state has ever tested positive for this substance. Requiring this as an additional test would be unduly burdensome on the testing licensees and manufacturing facility licensees.
If DHSS is unwilling to remove it, we would at least recommend that testing for this substance be limited to mandatory testing for inhalable, manufactured products."
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.110(7)(G)2. was amended to clarify that Vitamin E acetate is "only for inhalables and concentrates."

COMMENT #161: Natalie Brown states "with regards to 19 CSR 100-1.110(7)(G)2.B. that the "Addition of trichomes that were removed during grinding process" feels oddly specific.
If keeping, I might change to "addition of anything to the sample following grinding/homogenization process"."
RESPONSE AND EXPLANATION OF CHANGE: The terms were removed from 19 CSR 100-1.110(7)(G)2.B.

COMMENT#162: Amanda Shifflett states with regards to 19 CSR 100-1.110(7)(G)4., "Clarify that this is not for flower (as per variance)."
RESPONSE: There is potential for residual solvents in flower, but the department will review the waiver as needed. No changes have been made to the proposed rule as a result of this comment.

COMMENT #163: Annie Froeschner states "with regards to 19 CSR 100-1.110(7)(G)4. this section should clarify which products require residual solvents screening as raw plant material will not contain any residual solvents and does not need to be tested for such."
RESPONSE: There is potential for residual solvents in flower, but the department will review the waiver as needed. No changes have been made to the proposed rule as a result of this comment.

COMMENT #164: Jared Mastin states "for 19 CSR 100-1.110(7)(G)4. that the regulations for testing on moisture and water activity state that manually extracted concentrates such as kief and hash will fail if it has a moisture content less than five percent (5%). I highly recommend this be reconsidered. Kief and hash, although raw products of the cannabis plant, are intended to be mostly cannabinoids and terpenes. Water in these substances is a bad thing. A high quality kief or hash will have low moisture. I agree there should be an upper limit for moisture, for which it fails. But to have a lower limit on moisture will disincentivize kief, bubble hash, and rosin manufacturing."
RESPONSE AND EXPLANATION OF CHANGE: In response to this comment, "moisture content below five percent (5%) or above fifteen (15%)" was removed from this rule.

COMMENT #165: Amanda Shifflett states with regards to 19 CSR 100-1.110(7)(G)5.B., "Is this 5.0% and 2.0% by weight? Also, please confirm that foreign matter is only for flower."
RESPONSE AND EXPLANATION OF CHANGE: The phrase "moisture content below 5%" was deleted in 19 CSR 100-1.110(7)(G)5.B.

COMMENT #166: Annie Froeschner states with regards to 19 CSR 100-1.110(7)(G)6. "-This section needs clarity as to which sample types require foreign matter testing. As the section says that testing is performed on the total representative sample prior to homogenization, it implies that only marijuana flower, trim, prerolls, and infused prerolls are tested for foreign matter. This should be explicitly stated as in section (7)(G)5.A. above for water activity and moisture content.
-The acceptance criteria for this test are expressed in percentages. Is this by weight? Is the total representative sample the full sample pulled from the harvest lot, or is it the representative sample pulled for homogenization that will cover all testing and retesting? As foreign matter requires the plant material to be pulled apart to check for larger stems or dirt/hair, performing this test is somewhat destructive to the sample and will lead to larger sample degradation during the retain window."
RESPONSE AND EXPLANATION OF CHANGE: In response to this comment, the text of the rule in 19 CSR 100-1.110(7)(G)6. was amended to add clarifying language and C.-E.

COMMENT #167: Natalie Brown states "for 19 CSR 100-1.110(7)(H)1B that as referenced in (4)(A)2.E. the validation requirements are completely mismatch to the testing requirements. The validation requirements are for strict quantitative method and the testing requirements are for a limit test."
RESPONSE: Method performance characteristics that may be evaluated to validate a method will vary depending on the intended use of the method, the type of method, and the degree to which it has been previously validated. Criteria listed below are meant to serve as guidance for validation protocols and not all areas may be applicable to the method type used at a particular facility. No changes have been made to the proposed rule as a result of this comment.

COMMENT #168: Natalie Brown states "for 19 CSR 100-1.110(7)(H)1C that as referenced in (4)(A)2.E. the validation requirements are completely mismatch to the testing requirements. The validation requirements are for strict quantitative method and the testing requirements are for a limit test."
RESPONSE: Method performance characteristics that may be evaluated to validate a method will vary depending on the intended use of the method, the type of method, and the degree to which it has been previously validated. Criteria listed below are meant to serve as guidance for validation protocols and not all areas may be applicable to the method type used at a particular facility. No changes have been made to the proposed rule as a result of this comment.

COMMENT #169: Natalie Brown deleted the astrick behind Permethrins in 19 CSR 100-1.110(7)(H)2.
RESPONSE AND EXPLANATION OF CHANGE: In the rule posted to the *Missouri Register*, the asterick in the bottom of the table did not appear in error. The asterick refers to "Permethrins cumulative residue of cis- and trans-permethrin isomers" which will now appear in the final rule at the bottom of the chart.

COMMENT #170: Natalie Brown states for 19 CSR 100-1.110(7)(H)2. "that Piperonyl butoxide (BPO) is not a pesticide. The EPA and NPIC give it a "very low toxicity rating" allowing it to be

inhaled, skin exposed and otherwise ingested at levels greater than 2 ppm levels."
RESPONSE: This rule is not testing for pesticides, but for chemical residue. No changes have been made to the proposed rule as a result of this comment.

COMMENT #171: Natalie Brown deleted the plus sign behind Pyrethrins in 19 CSR 100-1.110(7)(H)2.
RESPONSE AND EXPLANATION OF CHANGE: In the rule posted to the *Missouri Register*, the plus sign in the bottom of the table did not appear in error. The plus sign refers to "+ Pyrethrins cumulative residues of pyrethrin 1, cinerin 1 and jasmolin 1" which will now appear in the final rule at the bottom of the chart.

COMMENT #172: Natalie Brown states "for 19 CSR 100-1.110(7)(H)2. that the testing for Vitamin E acetate should only be required for inhalables and concentrates (specifically vape pens)."
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.110(7)(G)2. was amended to clarify that Vitamin E acetate is "only for inhalables and concentrates."

COMMENT #173: Natalie Brown states "for 19 CSR 100-1.110(7)(H)3. that >0.2 for inhalation and the >0.5 meant for marijuana infused products for cadmium is lower than the >0.3 ppm recommended for inhalables by the FDA/USP in <232>."
RESPONSE: The levels in the rule indicate a permissible daily exposure to cadmium and therefore are appropriate for testing ranges. No changes have been made to the proposed rule as a result of this comment.

COMMENT #174: Natalie Brown states "for 19 CSR 100-1.110(7)(H)3. that chocolate often times have native levels that well exceed >0.2 for inhalation and the >0.5 meant for marijuana infused products for cadmium. I believe the EU (which is general pretty strict) requires chocolates to be >0.8 ppm. I would not recommend setting the limit to less than can be in a base chocolate bar."
RESPONSE: The department determined the levels are most applicable to all forms of chocolate. No changes have been made to the proposed rule as a result of this comment.

COMMENT #175: Natalie Brown states "for 19 CSR 100-1.110(7)(H)5. that water activity is currently the most useless test to ensure safe product. It pretty much never fails and doesn't tell you much about the product. I would recommend keeping moisture content and tossing water activity."
RESPONSE: Maintaining critical water activity level prevents microbial growth. There is no microbial growth below .60 a w. No changes have been made to the proposed rule as a result of this comment.

COMMENT #176: Natalie Brown asks with regards to 19 CSR 100-1.110(7)(H)5.A. whether hash or kief typically and/or need to have a moisture content below 5-15%."
RESPONSE AND EXPLANATION OF CHANGE: This comment was in that 19 CSR 100-1.110(7)(H)5.A. was edited to include the moisture content.

COMMENT #177: Natalie Brown states for 19 CSR 100-1.110(7)(H)5.A. "there is currently no place in metrc to record water activity and moisture content for prerolls, hash or kief as they are currently submitted and inhalables and concentrates."
RESPONSE: This comment is of a general nature, without a specific change proposed to the rule. No changes have been made to the proposed rule as a result of this comment.

COMMENT #178: Natalie Brown states for 19 CSR 100-1.110(7)(H)5.B. "because quantitation of powdery mildew/mold is almost impossible she would recommend breaking it out to a point C: 'visually detectable quantities of powdery mildew or mold.'"
RESPONSE AND EXPLANATION OF CHANGE: Changes were made to this rule as a result of this comment.

COMMENT #179: Kendra Conti asks "for 19 CSR 100-1.110(8)(B) how will the samples be manifested? Which lab will report the results? These should be outlined so that the samples don't get stuck in metrc each time."
RESPONSE: This comment is in the form of a question, without a specific change proposed to the rule. No changes have been made to the proposed rule as a result of this comment.

COMMENT #180: Andrew Mullins suggests deleting 19 CSR 100-1.110(8)(B) in its entirety.
RESPONSE: Reporting for voluntary testing is important. The department can monitor if there are unexplained differences between voluntary testing and mandatory testing or differences between testing between voluntary testing and mandatory testing between labs. This is a good mechanism for detecting "results shopping." No changes have been made to the proposed rule as a result of this comment.

COMMENT #181: Amanda Shifflett states for 19 CSR 100-1.110(8)(C), "Please include all variance letters (for example, that residual solvents is not required for flower) as part of the full testing rules.
Please clarify which tests are mandatory for each product type. Suggestion Below." Ms. Shifflet also provided a suggested table format.
RESPONSE: There is potential for residual solvents in flower, but the department will review the waiver as needed. No changes have been made to the proposed rule as a result of this comment.

COMMENT #182: Jonathan Brace requests that 19 CSR 100-1.110(8)C. be removed in its entirety. "Voluntary testing is often done as R&D for new products, or products that are new to the lab. It is essential to talk with the facility about results in order to ensure the proper methods are being used. (See previous note)."
RESPONSE: Reporting for voluntary testing is an important regulatory tool. The department can monitor if there are unexplained differences between voluntary testing and mandatory testing or differences between testing between voluntary testing and mandatory testing between labs. This is a good mechanism for detecting "results shopping." No changes have been made to the proposed rule as a result of this comment.

COMMENT #183: Annie Froeschner states "for 19 CSR 100-1.110(8)(C) Voluntary testing results should be able to be verbally communicated to the customer as testing is complete, not upon entry to METRC. This will allow a better professional relationship between the testing facility and the manufacturer/cultivator and will lead to less confusion and less wasted time."
RESPONSE: Reporting for voluntary testing is an important regulatory tool. The department can monitor if there are unexplained differences between voluntary testing and mandatory testing or differences between testing between voluntary testing and mandatory testing between labs. This is a good mechanism for detecting "results shopping." No changes have been made to the proposed rule as a result of this comment.

COMMENT #184: Andrew Mullins suggests deleting 19 CSR 100-1.110(8)(C) in its entirety.
RESPONSE: Reporting for voluntary testing is an important regulatory tool. The department can monitor if there are unexplained differences between voluntary testing and mandatory testing or differences between testing between voluntary testing and mandatory testing between labs. This is a good mechanism for detecting "results shopping." No changes have been made to the proposed rule as a result of this comment.

COMMENT #185: Andrew Lammert requests that language be included in 19 CSR 100-1.110(9)(A) that requires that the department respond to the remediation or destruction requests within thirty (30) days and reanalysis requests within ten (10) days.
RESPONSE: The comment requests a timeline for a department response. Such a suggested timeline would not be effective unless a sanction were prescribed on the department. Approval should be based on a regulatory need rather than an arbitrary timeline for a response. No changes have been made to the proposed rule as a result of this comment.

COMMENT #186: Natalie Brown asks whether the hold in 19 CSR 100-1.110(9)(A) is automatic or if the law still needs to send an email
RESPONSE: This comment is in the form of a question, without a specific change proposed to the rule. No changes have been made to the proposed rule as a result of this comment.

COMMENT #187: Natalie Brown states "in 19 CSR 100-1.110(9)(B) must be within 3 months. My understanding was that if the product is on hold in metrc we cannot do anything with it. Also 3 months may or may not line up with the mandatory 60 day hold requirement above."
RESPONSE: The sixty (60) day hold time referenced was replaced with a thirty (30) day time period. The remaining comment is of a general nature, without a specific change proposed to the rule. No changes have been made to the proposed rule as a result of this comment

COMMENT #188: Natalie Brown asks with regards to 19 CSR 100-1.110(9)(B)1. whether a failure is different than a suspected failure.
RESPONSE: This comment is in the form of a question, without a specific change proposed to the rule. No changes have been made to the proposed rule as a result of this comment.

COMMENT #189: Natalie Brown states for 19 CSR 100-1.110(9)(B)1.A. See Note on Reanalysis below.
RESPONSE: This comment is of a general nature, without a specific change proposed to the rule. No changes have been made to the proposed rule as a result of this comment.

COMMENT #190: Amanda Shifflett states for 19 CSR 100-1.110(9)(B)2.B., "Same as above. There is no reason for this rule which assumes the error lies with the laboratory."
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.110(9)(B)2.B. was amended to include the testing facility that performed the initial analysis.

COMMENT #191: Amanda Froeschner states for 19 CSR 100-1.110(9)(B)2.A. Depending on the amount of time between the initial failure and the re-testing, the original sample may no longer be representative of the harvest lot. A retest should also include a resample of the lot.
RESPONSE: 19 CSR 100-1.110(9)(B)2. AII already permits "testing on that new sample." No changes have been made to the proposed rule as a result of this comment.

COMMENT #192: Natalie Brown states for 19 CSR 100-1.110(9)(B)2.A. that the overall process sounds like a reanalysis protocol, if so, I would recommend titling the process "Reanalysis Protocol" to differentiate from the actual testing process of reanalysis.
RESPONSE: The suggestion is well-taken, but the heading of "testing failures" is sufficient as it is what triggers a Reanalysis. No changes have been made to the proposed rule as a result of this comment.

COMMENT #193: Amanda Shifflett states "for 19 CSR 100-1.110(9)(B)2A(I) "Why does the analysis need to be performed by a different lab? This assumes that the error lies with the laboratory rather than the product. It also comes across as a means to "test the sample into compliance" by getting results from another lab. If the lab is certified and compliant, then a reanalysis can be performed within the same laboratory assuming a thorough investigation into the failing results has been documented."
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.110(9)(B)2. was amended to include the testing facility that performed the initial analysis.

COMMENT #194: Annie Froeschner states for 19 CSR 100-1.110(9)(B)2.A.(I) There is no reason why the original testing facility should not be allowed to perform re-testing of a sample. The manufacturer/cultivator should be able to choose to use the same lab if it is determined that an error was made during the initial testing.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.110(9)(B)2. was amended to include the testing facility that performed the initial analysis.

COMMENT #195: Natalie Brown states for 19 CSR 100-1.110(9)(B)2.A.(I) that she would recomment, "First stage of reanalysis protocol must be performed on the originally collected sample (intent?), tested by a second testing facility, that did not perform the initial analysis."
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.110(9)(B)2. was amended to include the testing facility that performed the initial analysis.

COMMENT #196: Andrew Mullins recommends for 19 CSR 100-1.110(9)(B)2.A.(I) permitting any lab licensee, including the original lab, to perform reanalysis.
"The concern about having the original lab perform the test would only seemingly relate to potency results. But reanalysis is not available based on potency results.
The policy reflected in this provision creates the threat that operators can "shop" for labs that give them better results. We believe the cultivators and manufacturers should be required to accept the test results they receive, irrespective of what they are.
Allowing reanalysis creates incentives for corruption and other unethical behavior that could compromise product safety.
There is no means or method to stop an unscrupulous cultivator or manufacturer from manipulating a sample for reanalysis purposes.
Forcing another lab to do the testing assumes that the error lies with the laboratory rather than the product. It also comes across as a means to "test the sample into compliance" by getting results from another lab. If the lab is certified and compliant, then a reanalysis can be performed within the same laboratory."
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.110(9)(B)2. was amended to include the testing facility that

performed the initial analysis.

COMMENT #197: Amanda Shifflett states for 19 CSR 100-1.110(9)(B)2.A.(II), "Same as above. There is no reason for this rule which assumes the error lies with the laboratory."
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.110(9)(B)2. was amended to include the testing facility that performed the initial analysis.

COMMENT #198: Natalie Brown recommends for 19 CSR 100-1.110(9)(B)2.A.(II), "If the sample passes first stage of reanalysis protocol, second stage may be initiated by having a third (intent?) testing facility, that did not perform the initial testing or first stage of reanalysis, perform a new sampling of the lot and perform testing on that new sample in compliance with all rules for mandatory testing."
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.110(9)(B)2. was amended to include the testing facility that performed the initial analysis.

COMMENT #199: Andrew Mullins recommends for 19 CSR 100-1.110(9)(B)2.A.(II) permitting any lab licensee, including the original lab, to perform reanalysis.
"The concern about having the original lab perform the test would only seemingly relate to potency results. But reanalysis is not available based on potency results.
The policy reflected in this provision creates the threat that operators can "shop" for labs that give them better results. We believe the cultivators and manufacturers should be required to accept the test results they receive, irrespective of what they are.
Allowing reanalysis creates incentives for corruption and other unethical behavior that could compromise product safety.
There is no means or method to stop an unscrupulous cultivator or manufacturer from manipulating a sample for reanalysis purposes.
Forcing another lab to do the testing assumes that the error lies with the laboratory rather than the product. It also comes across as a means to "test the sample into compliance" by getting results from another lab. If the lab is certified and compliant, then a reanalysis can be performed within the same laboratory."
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.110(9)(B)2. was amended to include the testing facility that performed the initial analysis.

COMMENT #200: Annie Froeschner states "for 19 CSR 100-1.110(9)(B)2.B. There is no reason why the original testing facility should not be allowed to test the remediated product. If the manufacturer/cultivator agrees that there was an issue with the lot that needed to be remediated, then the testing facility caught an issue with a batch and should be allowed to perform the testing on the remediated batch to release it if it now meets the mandatory requirements. The phrase "that did not perform the initial analysis" should be removed from this statement."
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.110(9)(B)2. was amended to include the testing facility that performed the initial analysis.

COMMENT #201: Natalie Brown states "for 19 CSR 100-1.110(9)(B)2.B. Remediation testing has to be done by a facility that did not perform the initial testing? I feel like it needs to be tested by the original facility.
If you make a second lab do it, you are driving business away from labs that are willing to legitimately fail lots."
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.110(9)(B)2. was amended to include the testing facility that performed the initial analysis.

COMMENT #202: Natalie Brown asks "whether they can destroy before 60 days for 19 CSR 100-1.110(9)(B)2.C."
RESPONSE: The time referenced has been changed to thirty (30) days per previous comment. No changes have been made to the proposed rule as a result of this comment.

COMMENT #203: Jonathan Brace requests "for 19 CSR 100-1.110(9)(C) that "Product that fails testing for heavy metals may not be remediated" be removed from (9)(C). There are proven methods of remediation for heavy metals – such as extraction of cultivated products."
RESPONSE: While heavy metals may not be remediated as a part of mandatory testing, effectively, remediation of heavy metals is allowed if the first is done via voluntary testing. Many states do not allow any remediation of heavy metals in any circumstance. The department's approach is balanced, and prohibiting remediation of heavy metals during mandatory testing ensures the safety of marijuana products and health of consumers. No changes have been made to the proposed rule as a result of this comment.

COMMENT #204: Annie Froeschner states "for 19 CSR 100-1.110(9)(C) Heavy metal failures in plant material can be remediated by using that plant material to produce an extract or concentrate using a solvent, as heavy metals will not be extracted by a solvent."
RESPONSE: The cannabis plant is a hyperaccumulator. A hyperaccumulator is a plant capable of growing in soil or water with very high concentrations of metals, absorbing these metals through their roots, but then concentrating extremely high levels of metals in their tissues. Therefore, such levels in a plant may not be effectively remediated after mandatory testing. This is consistent with other states remediation rules. No changes have been made to the proposed rule as a result of this comment.

COMMENT #205: Natalie Brown states "for 19 CSR 100-1.110(9)(C) there is no specification for voluntary (R&D) testing so it cant' fail. Trying to assign specifications would be regulatory overreach."
RESPONSE: Reporting for voluntary testing is an important regulatory tool. The department can monitor if there are unexplained differences between voluntary testing and mandatory testing or differences between testing between voluntary testing and mandatory testing between labs. This is a good mechanism for detecting "results shopping." No changes have been made to the proposed rule as a result of this comment.

COMMENT #206: Natalie Brown asks "where is the science for 19 CSR 100-1.110(9)(C)? One can easily remediate metals from flower by certain distillation processes and from oil/concentrates by other processes. The only form you can't purify heavy metals from is final manufactured products."
RESPONSE: The cannabis plant is a hyperaccumulator. A hyperaccumulator is a plant capable of growing in soil or water with very high concentrations of metals, absorbing these metals through their roots, but then concentrating extremely high levels of metals in their tissues. Therefore, such levels in a plant may not be effectively remediated after mandatory testing. This is consistent with other states remediation rules. No changes have been made to the proposed rule as a result of this comment.

COMMENT #207: Andrew Mullins states "for 19 CSR 100-1.110(9)(C) that they are not aware of any scientific, practical, or legal

reason that flower that fails testing for heavy metals cannot or should not be remediated into concentrate. The extraction process will result in concentrate that will pass heavy metal testing. Naturally, products subsequently made from that concentrate will also pass all mandatory testing, which test results will confirm the safety of the products."
RESPONSE: The cannabis plant is a hyperaccumulator. A hyperaccumulator is a plant capable of growing in soil or water with very high concentrations of metals, absorbing these metals through their roots, but then concentrating extremely high levels of metals in their tissues. Therefore, such levels in a plant may not be effectively remediated after mandatory testing. This is consistent with other states remediation rules. No changes have been made to the proposed rule as a result of this comment.

COMMENT #208: Andrew Mullins suggests for 19 CSR 100-1.110(9)(C) adding the following language into the second sentence of (C) after "Product that fails testing for heavy metals may not be remediated"— "except that flower may be remediated into concentrate. Products subsequently manufactured from such remediated concentrate will be subject to mandatory testing."
RESPONSE: While heavy metals may not be remediated as a part of mandatory testing, effectively, remediation of heavy metals is allowed if the first is done via voluntary testing. Many states do not allow any remediation of heavy metals in any circumstance. The department's approach is balanced, and prohibiting remediation of heavy metals during mandatory testing ensures the safety of marijuana products and health of consumers. No changes have been made to the proposed rule as a result of this comment.

COMMENT #209: Natalie Brown asks "with regards to 19 CSR 100-1.110(9)(C)3. water activity/moisture content?"
RESPONSE: Maintaining critical water activity level prevents microbial growth. There is no microbial growth below .60 a w. No changes have been made to the proposed rule as a result of this comment.

COMMENT #210: Natalie Brown recommends for 19 CSR 100-1.110(9)(D), "Either stage of reanlysis protocol, may not reenter reanalysis protocol" instead of "reanalysis may not be reanalyzed"
RESPONSE AND EXPLANATION OF CHANGE: Changes were made to 19 CSR 100-1.110(9)-(10) that address the substance of the comment.

COMMENT #211: Natalie Brown suggests for 19 CSR 100-1.110(9)(E), "testing after remediation may not be remediated a second time, but the remediated material may enter reanalysis protocol" rather than stating "remediation may not be remediated again but may be reanalyzed"
RESPONSE AND EXPLANATION OF CHANGE: Changes were made to 19 CSR 100-1.110(9)-(10) that address the substance of the comment.

COMMENT #212: The Missouri Cannabis Trade Association commented that 19 CSR 100-1.110(3)(A)2. requires more experience than necessary to perform the job. In speaking with all seven (7) MoCannTrade member testing facility licensees, they unanimously agree that five (5) years of applicable experience is excessive and unnecessary to perform sampling and testing or to oversee those activities. They are generally entry level positions for which on-the-job training by the experienced and educated laboratory director (see 19 CSR 100-1.110(3)(A)1.) is more than sufficient. Most, if not all, medical laboratories and analytical laboratories require no education beyond a high school diploma and no experience for nonsupervisory positions. The cost to hire degree field lab technicians or individuals with years of experience will only increase the already-significant cost of testing, which invariably results in higher retail costs for Missouri patients and consumers and benefits the illicit market.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.110(3)(A)2. has been revised to require only two (2) years of applicable experience.

19 CSR 100-1.110 Testing

(1) Marijuana testing, generally.

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

(2) Marijuana testing facility certifications.

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

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

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

(A) Standards for personnel.

1. A marijuana testing licensee must employ a laboratory director with a degree in a natural science, such as biology, chemistry, physics, engineering, or environmental sciences, and at least five (5) years of experience in a regulated laboratory environment or a degree in another applicable field with at least ten (10) years of experience in a regulated laboratory environment.

2. Individuals performing sampling and testing of marijuana product, or overseeing the sampling and testing of marijuana product, must have at least a bachelor's degree in a natural science, such as biology, chemistry, physics, engineering, or environmental sciences, or at least two (2) years of applicable experience;

(B) Testing licensees shall be accredited by an International Laboratory Accreditation Cooperation recognized accreditation body under International Organization for Standardization (ISO)/International Electrotechnical Commission (IEC) standard 17025.

1. Testing licensees shall achieve such accreditation within one (1) year of the date the licensee receives department approval to operate and shall maintain its accreditation as long as the facility holds a certification.

2. The scope of the accreditation shall include all marijuana product testing required by this rule.

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

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

A. During any periods of time when a licensee no longer conforms with ISO/IEC 17025, the licensee shall not conduct testing of marijuana product, until approved by the department in writing, and may be subject to a fine of up to one thousand dollars ($1,000) for every day the facility is not in compliance. Upon return to compliance, the licensee shall not resume testing without department approval.

B. If a licensee loses ISO/IEC 17025 accreditation, the licensee shall not conduct testing of marijuana product and may be subject to a fine of up to one thousand dollars ($1,000) for every day the licensee is not in compliance.

5. If a licensee does not receive ISO/IEC 17025 accreditation within one (1) year of the date the licensee receives department approval to operate, the licensee shall not conduct testing of marijuana product and may be subject to a fine of up to one thousand dollars ($1,000) for every day the licensee is not in compliance;

(C) After the testing licensee has received approval to operate, the licensee shall participate in an annual proficiency testing program provided by an organization that is accredited to ISO/IEC 17043.

1. The scope of proficiency testing shall include all marijuana testing methods performed at the facility for testing required by this rule.

2. The licensee shall notify the department of the proficiency testing provider the facility chooses prior to engaging with the provider in proficiency testing.

3. The licensee shall analyze proficiency test samples using the same procedures, number of replicates, standards, and equipment as used for testing marijuana product for each individual conducting those tests at the time.

4. The licensee shall submit copies of proficiency test results to the department within two (2) business days of receipt.

5. The licensee shall take, and report to the department, corrective action on all failed proficiency tests, and failed tests must be repeated until the licensee obtains an acceptable result for all analytes. If the licensee fails a proficiency test more than once, the department may require the licensee to suspend mandatory testing of the failed analyte(s) until an acceptable result is received;

(D) Testing licensees shall retain all remaining sample material that was not used in the testing process for a minimum of thirty (30) days after testing is complete.

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

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

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

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

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

3. The licensee receiving the marijuana product for testing will perform the sampling and be responsible for the transportation of the marijuana product, at the direction of the department; and

4. The department may use the inter-lab comparisons to initiate an investigation or other corrective action for a testing licensee producing inconsistent or anomalous testing results;

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

(G) Testing licensees must perform all testing using sampling, methods, and equipment that are appropriate for the tests performed, capable of producing data in a format that meets scientific and regulatory standards, and also permitted within the scope of the licensee's accreditation under ISO/IEC 17025.

(4) Testing methods.

(A) Testing licensees shall use analytical and microbial testing methodologies that –

1. Are based upon published peer-reviewed methods;

2. Have been validated for cannabis testing by an independent third party; and

3. Have been internally verified by the testing licensee 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.

(B) 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, and if published cannabis standard method performance requirements are not available, compendia or other reputable sources.

(C) Testing licensees shall report to the department what testing method will be used prior to using that method and submit lab method validations to the department prior to offering the applicable testing to other licensed facilities.

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

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

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

4. Validation of analytical chemistry methods must, where feasible, verify accuracy, precision, analytical selectivity, limit of detection, limit of quantitation, and reportable range.

5. Validation involving microbiological methods must, where feasible, address accuracy, limit of detection, and reportable range.

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

(5) Sampling requirements for mandatory testing.

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

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

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

2. In the case of extracts, concentrates, distillates, or isolates the amount of material required for sampling is –

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

3. In the case of vape cartridges, prerolls, infused prerolls and all other infused products or items sold in a method of administration, the amount of material required for sampling is –

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

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

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

1. Desiccate samples;

2. Pre-test samples;

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

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

(6) Mandatory sample ordering and chain of custody.

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

1. The sending facility's license number;

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

3. The testing facility's license number;

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

5. For each lot to be sampled –

A. The marijuana product category;

B. The marijuana product tag number;

C. Total mass of the harvest or process lot;

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

E. The marijuana product sample tag number;

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

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

H. Identification of the test or tests requested;

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

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

K. Whether the marijuana product was remediated; and

L. The date, name, and signature of both the requesting facility's representative who was present for sampling and the testing facility's representative who conducted the sampling.

(F) Chain of custody records must be retained by both the requesting licensee and the testing licensee for at least five (5) years.

(G) For mandatory testing, it is the responsibility of the cultivation, manufacturing, or dispensary licensee to –

1. Order the tests necessary to comply with all applicable rules;

2. Ensure processing of the lot is complete prior to sampling;

3. Ensure the lot size from which a sample is taken meets the requirements of this chapter;

4. Only order a test for marijuana product produced by the licensee;

5. Not order more than one (1) test for the same marijuana product lot without written approval from the department;

6. Ensure the marijuana product is not on administrative hold and not awaiting approval for retesting; and

7. Ensure remediation of the marijuana product was approved by the department.

(7) Mandatory testing requirements.

(A) Testing of each harvest lot or process lot shall be conducted such that there is assurance that all harvest or process lots are adequately assessed for contaminants and that the cannabinoid profile is consistent throughout.

(B) Reporting results.

1. Within ten (10) days of collecting a sample and within twenty-four (24) hours of completing analysis of a sample, the testing licensee shall file a report in the state-wide track and trace system detailing, at a minimum:

A. All test results showing whether the lot passed or failed each required test;

B. The certificate of analysis provided to the licensee or third party; and

C. A photo of the sample received at the facility.

2. Testing licensees must notify the department if the time frame for reporting results will not be met due to an equipment failure. The notification must include an explanation of the equipment failure and the estimated time frame for the report to be filed in the state-wide track and trace system. The notification must be made prior to deadline for reporting results.

(E) Testing of the cannabinoid profile of the final marijuana product shall include those analytes listed below and shall be reported on a dry weight basis for dried, unprocessed marijuana and prerolls and on an "as is" basis for all other marijuana product. The acceptable limits for each analyte will be a percentage deviation from the mean, using at least three (3) samples, in concentration throughout the lot of fifteen percent (15%) or less:

1. Delta-9-tetrahydrocannabinol (Δ9-THC), CAS number 1972-08-3;

2. Delta-9-tetrahydrocannabinolic acid (Δ9-THCA) CAS number 23978-85-0;

3. Cannabidiol (CBD), CAS number 13956-29-1;

4. Cannabidiolic acid (CBDA), CAS number 1244-58-2;

5. Cannabinol (CBN), CAS number 521-35-7;

6. Tetrahydrocannabivarin (THCV), CAS number 31262-37-0;

7. Cannabidivarin (CBDV), CAS number 24274-48-4; and

8. Delta-8-tetrahydrocannabinol (Δ8-THC), CAS number 5957-75-5.

(F) The testing licensee shall ensure that any samples for mandatory testing of marijuana are prepared in accordance with the following requirements:

1. The testing licensee shall first remove any sample increments required to conduct testing for microbials and water activity;

2. If the final marijuana product includes such things as stems, seeds, wrap, or leaves, those items must also be included in the sample, but if the final marijuana product will not include such things as stems, seeds, wrap, or leaves, those items must be removed from the product lot prior to sampling;

3. A wrap, crutch, or filter, if present, shall be removed for cannabinoid profile screening; and

4. In the preparation of samples intended for potency analysis, the laboratory may not adulterate or attempt to manipulate the potency of the sample.

(G) Testing for contaminants in the final marijuana product shall include, but shall not be limited to –

1. Microbial screening. A test will fail if it shows –

A. A total mycotoxin concentration, including aflatoxins and ochratoxin A, of greater than twenty (20) micrograms per kilogram;

B. Pathogenic E. coli or salmonella concentrations detectable in one (1) gram; and

C. Pathogenic Aspergillus species A. fumigatus, A. flavus, A. niger, or A. terreus detectable in one (1) gram;

2. Chemical residue screening. A test will fail if it shows –

Banned Analytes	Chemical Abstract Services (CAS) Registry number	Action Limit (ppm)
Abamectin	71751-41-2	> 0.5
Acephate	30560-19-1	> 0.4
Acequinocyl	57960-19-7	> 2
Acetamiprid	135410-20-7	> 0.2
Aldicarb	116-06-3	> 0.4
Azoxystrobin	131860-33-8	> 0.2
Bifenazate	149877-41-8	> 0.2
Bifenthrin	82657-04-3	> 0.2
Boscalid	188425-85-6	> 0.4
Carbaryl	63-25-2	> 0.2
Carbofuran	1563-66-2	> 0.2
Chloran-traniliprole	500008-45-7	> 0.2
Chlorfenapyr	122453-73-0	> 1
Chlormequat Chloride	7003-89-6	> 0.2
Chlorpyrifos	2921-88-2	> 0.2
Clofentezine	74115-24-5	> 0.2
Cyfluthrin	68359-37-5	> 1
Cypermethrin	52315-07-8	> 1
Daminozide	1596-84-5	> 1
DDVP (Dichlorvos)	62-73-7	> 1
Diazinon	333-41-5	> 0.2
Dimethoate	60-51-5	> 0.2
Ethoprophos	13194-48-4	> 0.2
Etofenprox	80844-07-1	> 0.4
Etoxazole	153233-91-1	> 0.2
Fenoxycarb	72490-01-8	> 0.2
Fenpyroximate	134098-61-6	> 0.4
Fipronil	120068-37-3	> 0.4
Flonicamid	158062-67-0	> 1
Fludioxonil	131341-86-1	> 0.4
Hexythiazox	78587-05-0	> 1
Imazalil	35554-44-0	> 0.2
Imidacloprid	138261-41-3	> 0.4
Kresoxim-methyl	143390-89-0	> 0.4
Malathion	121-75-5	> 0.2
Metalaxyl	57837-19-1	> 0.2
Methiocarb	2032-65-7	> 0.2
Methomyl	16752-77-5	> 0.4
Methyl parathion	298-00-0	> 0.2
MGK-264	113-48-4	> 0.2
Myclobutanil	88671-89-0	> 0.2
Naled	300-76-5	> 0.5
Oxamyl	23135-22-0	> 1
Paclobutrazol	76738-62-0	> 0.4
Permethrins*	52645-53-1	> 0.2
Prallethrin	23031-36-9	> 0.2
Phosmet	732-11-6	> 0.2
Piperonyl_butoxide	51-03-6	> 2
Propiconazole	60207-90-1	> 0.4
Propoxur	114-26-1	> 0.2
Pyridaben	96489-71-3	> 0.2
Pyrethrins+	8003-34-7	> 1
Spinosad	168316-95-8	> 0.2
Spiromesifen	283594-90-1	> 0.2
Spirotetramat	203313-25-1	> 0.2
Spiroxamine	118134-30-8	> 0.4
Tebuconazole	80443-41-0	> 0.4
Thiacloprid	111988-49-9	> 0.2
Thiamethoxam	153719-23-4	> 0.2
Trifloxystrobin	141517-21-7	> 0.2
Vitamin E acetate**	58-95-7	> 0.2

* Permethrins cumulative residue of cis- and trans-permethrin isomers

+ Pyrethrins cumulative residues of pyrethrin 1, cinerin 1 and jasmolin 1

**Only for inhalables and concentrates.

3. Heavy metal screening. A test will fail if it shows –

Metal	Failure Level for Marijuana (Meant for Inhalation) (ppm)	Failure Level for Marijuana-Infused Products (ppm)
Total Arsenic	> 0.2	> 1.5
Cadmium	> 0.2	> 0.5
Total Chromium	> 0.6	> 2.0
Lead	> 0.5	> 0.5
Mercury	> 0.1	> 3.0

4. Residual solvents. A test will fail if it shows –

Solvent	Chemical Abstract Services (CAS) Registry number	Failure Level for Marijuana (Inhalation) (ppm)	Failure Level for Marijuana-Infused Products (ppm)
1,2-Dichloroethane	107-06-2	> 2	> 5
Acetone	67-64-1	> 750	> 5000
Acetonitrile	75-05-8	> 60	> 410
Benzene	71-43-2	> 1	> 2
Butanes (all isomers)	106-97-8	> 800	> 5000
Chloroform	67-66-3	> 2	> 60
Ethanol	64-17-5	> 1000	> 5000
Ethyl acetate	141-78-6	> 400	> 5000
Ethyl ether	60-29-7	> 500	> 5000
Ethylene Oxide	75-21-8	> 5	> 50
Heptane	142-82-5	> 500	> 5000
Hexanes (all isomers)	11054-3	> 50	> 290
Isopropyl alcohol	67-63-0	> 500	> 5000
Methanol	67-56-1	> 250	> 3000
Methylene chloride	75-09-2	> 125	> 600
Pentanes (all isomers)	109-66-0	> 750	> 5000
Propane	74-98-6	> 2100	> 5000
Toluene	108-88-3	> 150	> 890
Trichloroethylene	79-01-6	> 25	> 80
Total Xylenes (ortho-, meta-, para-)	1330-20-7	> 150	> 2170

5. Water activity and moisture content screening. A test will fail if it shows –

A. For dry, unprocessed marijuana, prerolls, and infused prerolls, water activity that exceeds 0.65 a w and moisture content below 5.0% or above 15.0%;

B. For manually extracted concentrates that are not oil, such as hash and kief, water activity that exceeds 0.65 a w; and

C. For all solid infused products, water activity that exceeds 0.85 a w.

6. Foreign matter screening. Testing shall be performed on the total representative sample after preparation for microbial and water activity testing and prior to preparation for all other testing.

A. Quantitation of foreign matter shall be measured using a total surface area calculation.

B. All evaluation must be done on high power magnification.

C. Examine both the exterior and interior of the sample.

D. Must use a grading scale determine by the testing licensees which clearly dictates a failed sample.

E. A test will fail if it shows –

(I) More than 5.0% of stems 3 mm or more in diameter; or

(II) More than 2.0% of other foreign matter (powdery mildew, mold, mites, hair, dirt, etc.).

(8) Testing licensees may perform terpene analysis on a sample submitted for mandatory testing for purposes of reporting results on marijuana product packaging. Testing licensees who offer terpene analysis for mandatory samples must include terpene analysis in the scope of accreditation and scope of proficiency testing.

(9) Voluntary testing.

(A) Upon request from a cultivation, manufacturing, or dispensary licensee, testing licensees may also test material that was not collected by the testing licensee according to the rules for mandatory test sampling. Results from such voluntary tests will not satisfy mandatory testing requirements.

(B) Voluntary testing may be completed on a schedule agreeable to the submitting facility, but all test results from voluntary testing must be reported in the state-wide track and trace system.

(C) Reporting of test results in the state-wide track and trace system must coincide with or precede any notice of test results to the originating facility.

(10) Testing failures.

(A) The department will place an administrative hold on marijuana product that fails mandatory testing through the state-wide track and trace system.

(B) All product that fails mandatory testing must be reanalyzed, remediated, or destroyed within three (3) months of initial test failure. Product that fails mandatory testing may be reanalyzed, remediated, or destroyed as follows:

1. Before taking action with any product that fails mandatory testing, licensees must, within fifteen (15) days of test failure, notify the department of their intent to proceed in one of the following ways:

A. Reanalysis of previously tested sample;

B. Remediation of the harvest or process lot through remediation actions specifically allowed by rule;

C. Destruction of the harvest or process lot; or

D. Submission of a request to perform remediation not specifically allowed by rule.

2. After notifying the department, licensees may –

A. Reanalyze the original sample collected for testing.

(I) Reanalysis may be performed by the testing facility that performed the initial analysis or a testing facility that did not perform the initial analysis.

(II) If the sample passes reanalysis, a testing facility that did not perform the initial analysis or reanalysis may sample the lot and perform testing on that new sample in compliance with all rules for mandatory testing;

B. Complete marijuana product remediation through a remediation process specifically allowed by this rule. After

a product has been remediated, the testing facility that performed the initial analysis or a testing facility that did not perform the initial analysis shall resample the lot and perform testing on that new sample in compliance with all rules for mandatory testing;

C. Destroy the product; or

D. Submit a request to remediate the product through a method not specifically approved by this rule. Such requests must be approved by the department, in writing, prior to the licensee taking any remediation actions.

(C) Heavy Metal Failures. Marijuana product that fails mandatory testing for heavy metals shall be placed on administrative hold through the state-wide track and trace system pending disposal or, if approved by the department, reanalysis. Product that fails testing for heavy metals may not be remediated.

(11) Approved remediation processes. Marijuana product that fails testing, except for heavy metal failure, may be remediated. After notifying the department of intent to remediate, licensees may conduct the following remediation processes without additional approval:

(A) Failed microbial screening may be remediated through solvent-based extraction or processing, such as hydrocarbon, ethanol, or carbon dioxide;

(B) Failed residual solvent testing may be remediated by returning the product to a purging process within the facility;

(C) Failed water activity testing may be remediated by –

1. Solvent-based extraction or processing; or

2. Additional drying or curing;

(D) Failed chemical residue screening may be remediated through solvent-based extraction or processing, such as hydrocarbon, ethanol or CO_2;

(E) A lot that fails reanalysis may not be reanalyzed again but may be remediated one time; and

(F) A lot that fails remediation may not be remediated again but may be reanalyzed one (1) time.

(12) A medical or marijuana licensee may be required by the department to submit samples of marijuana product for testing at any time and without notice.

(A) The department may have the marijuana product tested at a marijuana testing facility, the Missouri State Public Health Laboratory, or any other lab authorized to conduct the required tests. If the department requests that a marijuana testing facility test the marijuana product, the facility may not charge the department any more than it would ordinarily charge any other entity for whom it performs the same or similar tests.

(B) Samples collected will be tested by the department to determine whether the marijuana product is safe for human consumption and is accurately labeled or to verify the result of marijuana testing conducted by a marijuana testing laboratory.

(C) Samples may be collected either through random process to determine accuracy of testing results or when the department has reasonable grounds to believe –

1. Marijuana product is contaminated or mislabeled;

2. A licensee is in violation of any rule, statute, or Article XIV; or

3. The results of a test would further an investigation by the department.

(13) Testing licensees may test marijuana product and hemp product received from entities that are not licensed marijuana facilities.

(A) Samples for these tests must be delivered by the entity requesting the test to the testing facility.

(B) Prior to engaging in these services, testing licensees must submit standard operating procedures related to these services to the department for review, which must include:

1. Tagging and tracking;

2. Chain of custody; and

3. Testing methods if different from the testing methods established for testing of marijuana product for medical and marijuana facilities.

TITLE 19 – DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 100 – Division of Cannabis Regulation
Chapter 1 – Marijuana

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 1.3.(1)(b), 1.3.(2), 2.4(1)(b), and 2.4(4) of Article XIV, Mo. Const., the department adopts a rule as follows:

19 CSR 100-1.120 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on March 1, 2023 (48 MoReg 505-509). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Department of Health and Senior Services received fifty-five (55) comments on the proposed rule.

COMMENT #1: Valentina Lana commented, "I would like to get some clarifications on the recent changes made on 1/20/23 and confirm that they are the most uptodate modifications. https://health.mo.gov/about/proposedrules/pdf/19CSR100-1.120.pdf

(B) Product and Packaging Design.

1. No marijuana product or packaging may be designed using the shape or any part of the shape of a human, animal, or fruit, including realistic, artistic, caricature,or cartoon renderings. We are allowed to use flower shaped designs i.e roses, sunflowers ect. (not marijuana flower) 5. All marijuana product packaging, including exit packaging, may only utilize:

A. single color does various shades (color saturation) of 1 color count as 1 color or must it be the same?

B. a product name

C. a text indicating whether the product is sativa, indica, hybrid and

D. up to two logos or symbol of a different color or colors, whether images or text, including brand logos, provided the logo or symbol is no larger than tow inches (2") in length and two inches (2") in height." want to confirm that it is 2 inches and not 1 inch

B &C ARE ALLOWED TO BE STICKER ON CORRECT? (just as long as they are part of the final packaging)

(C) Labeling.

1. The front of all containers, wrappers, packages, and methods of administration, except the paper for prerolls, that contain marijuana product shall be clearly and conspicuously labeled with "Marijuana" printed at least as large as any other words used on the containers, methods of administration, wrappers, and packages, as well as a prominently displayed symbol indicating the product contains marijuana that consists of the following:

A. diamond containing the letters "TCH"; and

B. the number of milligrams of THC in the package.

A, B AND "MARIJUANA" ARE ALLOWED TO BE STICKER ON CORRECT?(just as long as they are part of the final packaging)"

RESPONSE: This comment did not suggest a change to the rule, but rather requested clarification. No changes have been made to the proposed rule as a result of this comment.

COMMENT #2: Comments were received from Annie Froeschner, Nicholas Rinella, Andrew Lammert, Margaux Weinstein, and Adolphus Busch regarding the plain packaging requirement in 19 CSR 100-1.120(1)(B)5.A. The common theme is a general dislike for the requirement for plain packaging, as it can cause confusion about what product is in the packaging and pose risks for accidental ingestion or unintended consumption of the wrong substance, it is vastly different than previous packaging requirements and will take time and incur extra costs to get into compliance, it eliminates brand creativity and differentiation, and it hurts smaller local brands with less brand recognition.

RESPONSE: Article XIV prohibits packaging from being attractive to children, and colorful packaging is attractive to children. This type of requirement is not unique to Missouri. Plain packaging will not cause confusion between marijuana product and non-marijuana products, so there should not be a concern about the packaging causing people to accidentally ingest something they did not know to be marijuana. Additionally, the labeling requirements provide that, no matter what level of packaging a marijuana product is in, it must be clearly labeled as marijuana to avoid confusion with something that is not marijuana. If an individual knows that a product is marijuana, it is reasonable to expect that they would take the time to read the label before ingesting it, to determine the dose or serving size. After facilities begin packaging marijuana product in single-color packages, the extra expense to comply with this rule will no longer be a concern. Understanding, however, that licensees may have a large inventory of packaging that does not comply with this new rule, the department is prepared to issue a waiver of these requirements for a limited timeframe to allow licensees to achieve compliance. No changes have been made to the proposed rule as a result of these comments.

COMMENT #3: Nicholas Rinella commented that indica, sativa, and hybrid can cause confusion, as they have been used to describe the effects of cannabis strains despite inconsistent effects.

RESPONSE: The requirement to include these strains was added in response to previous comments received prior to publishing these rules. Whether the effects are attributed to the product is up to the cultivation, manufacturing, or dispensary licensee. This requirement only informs the purchaser that the product comes from a certain type of plant. No changes have been made to the proposed rules as a result of this comment.

COMMENT #4: Nicholas Rinella commented that logo size should not be limited and marijuana should not have to be on the front of the packaging.

RESPONSE AND EXPLANATION OF CHANGE: There is no requirement regarding where the logos must be located on the packaging. The provision allows packaging to include logos or symbols on the packaging, provided they are limited in size. It is reasonable that, because different products come in different sizes of packages, the logo sizes could change depending on the package size. 19 CSR 100-1.120(1)(B)5.D. was revised to change the size requirement of the logos in response to this comment.

COMMENT #5: Gabe Jertberg commented related to the private cost statement that the number included therein is false. He discussed changes to packaging, labeling, and product design that will cost upwards of $2,000,000 in wasted packaging, labor costs, new packaging, and new labeling purchases.

RESPONSE: These costs were accounted for, but they were included in 19 CSR 100-1.100, as 19 CSR 100-1.100 requires that facilities comply with all regulations. No changes have been made to the proposed rule as a result of this comment.

COMMENT #6: Jennifer Rhoads, Gini Fite, and David Mason commented, "An addition of "toy" to this list as well as wording prohibiting use of "similar images and items typically marketed towards minors, or references to products that are commonly associated with minors or marketed by minors;" This would make clearer rules regarding labeling that is consistent with recommendations for additions to Proposed Rules recommended elsewhere in this document. (See recommendation for addition of definition for "Attractive to children" in "Proposed Rules: Definitions" section above)."

RESPONSE: Section 195.805, RSMo. provides specific restrictions on design and shape of edible marijuana product, packaging, and logos. The language in 10 CSR 100-1.120(1)(B)1 aligns with the statutory language, and department does not choose to vary from the statutory language. No change has been made to the proposed rule as a result of this comment.

COMMENT #7: Comments were received from Chris DeCioccio, Andrew Lammert, Margaux Weinstein, Nicholas Rinella, Andrew Mullins, Alissa Farquhar, and David Bonenberger suggesting that the packaging requirements set forth in 19 CSR 100-1.120 violate Article XIV of the Missouri Constitution, because they are more stringent than comparable regulations on alcohol.

RESPONSE: Article XIV requires certain restrictions on packaging that are more stringent than alcohol regulations on advertising. While packaging can be used as a means of advertising, packaging does not necessarily constitute advertising. Further, the definition in 19 CSR 100-1.010 pertaining to advertising specifically excludes packaging. That provision was mirrored after the definition of advertising used in the alcohol regulations, 11 CSR 70-2.240, which specifically provides that the following do not constitute advertisements: "Any label affixed to any container of intoxicating liquor *or any individual covering, carton, or other wrapper of a container*" (emphasis added). Excluding packaging from the definition of advertisement is in line with the definition in the alcohol regulations. Because packaging is not included in the definition of advertisement, it may not serve as a means for advertising, so the limitations on packaging need not be compared to regulations on advertising of alcohol. No changes have been made to the proposed rule as a result of this comment.

COMMENT #8: Jennifer Rhoads, Gini Fite, and David Mason commented, "The department may consider changing "appeal to children" to "attractive to children" to comply with language found in Article XIV Section 2 Subsection 4 (4) (e) and Article XIV Section 2 Subsection 9 (4). This Proposed Rule may also have a typo for the word "caricature" by misspelling it as "caracature.""

RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.120(1) has been revised to change "appeal to children" to "attractive to children." 10 CSR 100-1.120(1)(B)1. has been revised to correct the misspelled "caricature."

COMMENT #9: Andrew Mullins suggests adding the following sentence, "Products will not violate this rule provision merely

because they utilize branding and ingredients found in, or taste similar to, products that do not contain marijuana;" to 19 CSR 100-1.120(1)(B)2.
RESPONSE: This subsection is about products and packaging that is visually similar to non-marijuana products. Ingredients and taste are not related to visual appeal and are therefore unnecessary. Utilizing the same branding is one of the issues this rule provision attempts to address. This suggested change would negate the rest of the provision. No changes have been made to the proposed rule as a result of this comment.

COMMENT #10: Andrew Lammert and Andrew Mullins request revision to 19 CSR 100-1.120(1)(B)4. so that either the packaging not be required to be FDA approved, or the words "if possible" be added to the end of the provision. They stated that compliance is unduly burdensome because they cannot be satisfied as to some marijuana products. Additionally, facilities source packaging from other countries, so this requirement would increase the costs for the facilities.
RESPONSE AND EXPLANATION OF CHANGE: This is referring to the substances used to make the packaging and is in place to ensure that marijuana is not contaminated by way of its packaging. However, 19 CSR 100-1.120(1)(B)4.has been revised to accommodate possibly approving a different layer of packaging that must comply to account for items such as vape cartridges that may not be able to obtain FDA approval.

COMMENT #11: Missouri Department of Health and Senior Services staff suggested adding an exception for marijuana seeds and plants for the requirements that the packaging be resealable, opaque, and child resistant; as well as constructed from FDA-approved food-contact substances. There are not the same public safety concerns with seeds and plants as there are with marijuana product. Additionally, it is overly burdensome to require marijuana seeds and plants to be packaged in FDA-approved food contact substances when those items will not be directly used by the consumer at those stages.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.120(1)(B)3. and 4. have been revised to address this comment.

COMMENT #12: Missouri Department of Health and Senior Services staff suggested adding "design" after packaging and "that for" after including in 19 CSR 100-1.120(1)(B) to add clarity.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.120(1)(B)5. has been revised to address this comment.

COMMENT #13: Nicholas Rinella requests that the department keep the previous packaging rule and delete the proposed rule in its entirety due to concerns regarding plain packaging, violations of the advertising restrictions, logo size limitations, and inclusion of the terms indica, sativa, or hybrid on packaging
RESPONSE: Mr. Rinella's individual concerns have been addressed in response to comments 2-5. The department will not be retaining the previous packaging rule. No changes have been made to the proposed rule as a result of this comment, but changes to the logo size were addressed in response to comment 4.

COMMENT #14: Andrew Lammert, Andrew Mullins, and Alissa Farquhar all request the ability to provide additional information on packaging, or alternately to be able to include a QR code.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.120(1)(B)5.E. and F. have been added to allow the labels required by rule to be included on packaging and to allow a QR code on packaging.

COMMENT #15: Missouri Department of Health and Senior Services staff suggested adding the product packaging approval number discussed in 19 CSR 100-1.120(2) to the list of what is required on the label in 19 CSR 100-1.120(1)(C)2. to ensure licensees know they are required to include this information on the packaging.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.120(1)(C)2.L. has been added to address this comment.

COMMENT #16: Margaux Weinstein, Adolphus Busch, and Gabe Jertberg request a grace period between when the rules take effect and when licensees are required to comply with the stringent requirements and drastic changes provided by this rule.
RESPONSE: The proposed rules were filed in January of 2023, giving licensees ample time to become aware of the proposed changes to the packaging rule and to get into compliance. The rules will not become effective until the end of July 2023. If the department determines it is reasonable and appropriate at the time the rule takes effect, it can issue waivers and/or variances to enable licensees to come into compliance with this rule. The department does not intend to include a grace period in the rule text. No changes have been made to the proposed rule as a result of this comment.

COMMENT #17: Margaux Weinstein believes that 19 CSR 100-1.120(1)(C)1. is redundant and burdensome as packaging guidelines already require that items are clearly identified as marijuana. Ms. Weinstein requests that this requirement be removed.
RESPONSE: The packaging provisions do not already require that items be identified as "marijuana." 19 CSR 100-1.120(1)(C)1. is where that requirement resides in rule. No changes have been made to the proposed rule as a result of this comment.

COMMENT #18: Missouri Department of Health and Senior Services staff suggested adding a requirement that packaging be in compliance with applicable local, state, and federal requirements.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.120(1)(B)6. was added to include this requirement. Additionally, language was added to (1)(C)4. to address how this might impact product packaging requirements in rule.

COMMENT #19: Missouri Department of Health and Senior Services staff suggested providing an explanation in 19 CSR 100-1.120(1)(C) to indicate what items must comply with labeling requirements within the section in order to provide clarity.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.120(1)(C) was revised to add the requested information and exceptions. (1)(C)1. was revised to remove parallel language that pertained to the requirement for a universal symbol and the word "marijuana."

COMMENT #20: Missouri Department of Health and Senior Services staff suggested adding a requirement for packaging that complies with Article XIV requirements that quantity limits per sale must comply with the allowable possession amount in regards to the maximum weight of each "package". There is no segregation between medical and non-medical marijuana, and consumers have a purchase limit of three (3) ounces per transactions.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.120(4) was added to address this concern.

COMMENT #21: Andrew Lammert and Gabe Jertberg bring concerns about 19 CSR 100-1.120(1)(C)1. requiring containers,

wrappers, packages, and methods of administration to say "marijuana" as it was not a part of the medical program rules and would require custom preroll cones and vape cartridges which will increase costs and require longer lead times for the custom orders, along with the causing testing failures due to the word "marijuana" being inked on the preroll cone. Additionally, the warnings are already indicated on the outermost packaging, which is visible to the patient or consumer, so this requirement is redundant and would require unnecessary expense.
RESPONSE AND EXPLANATION OF CHANGE: This provision is in place to ensure that no matter what layer of packaging, wrapper, or method of administration the product is in, it is clear that it is a marijuana product. This is a public safety issue that will not be removed. The concern about the paper for prerolls having printing that could contaminate them for testing is not applicable, because this provision specifically excludes the paper used for prerolls from this requirement. 19 CSR 100-1.120(1)(C)1. has been revised to include an allowance for potential approved variances from the placement requirement.

COMMENT #22: Regarding 19 CSR 100-1.120(1)(C)1., Adolphus Busch asks that marijuana and universal symbol only be on outermost layer of packaging. He also asks the department to consider a smaller size of the marijuana symbol.
RESPONSE: Requiring the marijuana and symbol to only be on the outermost layer of packaging could result in people never seeing the word or symbol, if the product is unpackaged to be placed on shelves at a dispensary. Additionally, this placement on all layers helps ensure that, once purchased and unwrapped, the product is still clearly identifiable as marijuana product. The requirement is intended to promote public health and safety by ensuring that no matter what level of packaging the product is in, it is clear that it is marijuana.
Regarding the allowance for a smaller universal symbol on wrappers, if a licensee wishes to vary from this requirement, it can submit a request for variance in accordance with this chapter. No changes have been made to the proposed rule as a result of this comment.

COMMENT #23: Andrew Mullins requests that the department remove reference to "methods of administration" or to alternatively add the requirements of the word "Marijuana" and the number of milligrams of THC in the pack to the list of mandatory labeling categories listed in 19 CSR 100-1.120(1)(C)2.
RESPONSE: The word "marijuana" is already required in 19 CSR 100-1.120(1)(C)1., and THC content in milligrams is already required in 19 CSR 100-1.120(1)(C)2.G., these changes are unnecessary. No changes have been made to the proposed rule as a result of this comment.

COMMENT #24: Missouri Department of Health and Senior Services staff suggested adding language to 19 CSR 100-1.120(1)(C)1. to require the letter "M" to be part of the universal symbol, consistent with 195.805, RSMo. Also suggested adding placement location and a qualifier for the number of milligrams, indicating that it only be for infused products. Milligrams is only used for infused products, as infused products are produced at an intended mg rate. For concentrates and raw plant material, the potency is variable and may require frequent item approval due to the variable potency. Finally suggested requiring the symbol to be in red and white print.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.120(1)(C)1. was revised to include the requirement for symbol color, (1)(C)1.B. was added to include the requirement for the letter "M," and (1)(C)1.C. was revised to include location and qualifier for THC content.

COMMENT #25: Jonathan Nelson commented with regard to 19 CSR 100-1.120(1)(C)2., "On behalf of the Missouri Department of Transportation, Highway Safety and Traffic Division, we would like to recommend DHSS include in the proposed rules for marijuana a requirement for warning labels on cannabis packaging that warn individuals of the risks associated with driving under the influence of marijuana.
In Missouri, more than 200 individuals are killed in impaired driving crashes each year. While alcohol has long been the most common substance involved in impaired driving crashes, the use of marijuana has become increasingly present in blood tests of drivers involved in fatal and serious injury crashes. Use has especially increased since the adoption of medical marijuana in Missouri, and it is expected a similar effect will result from the passage of Amendment 3. Furthermore, cultural norms often incorrectly suggest marijuana use poses little or no risk to drivers, and in some cases, even suggests use will only make drivers safer by slowing them down. This is a false and harmful narrative that requires active messaging to warn individuals of the risks associated with driving while under the influence.
As such, we are recommended a warning be included on the label of all cannabis product packaging similar to the example below:
"The use of marijuana may result in cognitive and physical impairment. Driving under the influence of marijuana is against the law and strictly prohibited.""
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.120(1)(C)2.M. has been added to address this comment.

COMMENT #26: Mark Hendren requests that the department remove the word only in 19 CSR 100-1.120(1)(C)2. so that the language would read, "The marijuana product container closest to the product shall bear a label displaying the following information, in the following order, from top to bottom and left to right."
RESPONSE: Removing this word would allow licensees to provide additional information on the label that could make the required information difficult to find. No changes have been made to the proposed rule as a result of this comment.

COMMENT #27: Adolphus Busch and Andrew Mullins suggest revising the requirement in 19 CSR 100-1.120(1)(C)2. that the container closest to the product bear the label. Mr. Busch suggested language only requiring the child-resistant container and marketing layer to have the label. Mr. Mullins suggested language requiring marijuana product packaging to contain the label.
RESPONSE AND EXPLANATION OF CHANGE: This provision seeks to ensure that outer packaging that is likely to be disposed of will not be the only location of a label containing all of the information in this subsection. Nothing precludes licensees from including the label on other layers of packaging. However, in case there are reasons for not placing the label on the container closest to the product, 19 CSR 100-1.120(1)(C)2. has been revised to include language allowing approval of alternate placement of the label.

COMMENT #28: Alissa Farquhar and Andrew Mullins 19 CSR 100-1.120(1)(C)2.A. bring up issues with requiring ingestible marijuana-infused product to comply with applicable food safety standards, when the FDA allows things like "natural flavors" and "terpenes" to be grouped and identified with these labels. Ms. Farquhar suggests requiring a food grade certification for ingredients such as these in order to allow them to be listed in FDA-recognized groupings. Mr. Mullins

suggests changing the example of groupings to "proprietary blend," and adding language indicating that recognized terms such as "natural flavors" and "terpenes" do not violate the provision.
RESPONSE: The purpose of this provision is to ensure that all ingredients in the product are identifiable by a purchaser or user of the product, for public health and safety reasons. No changes have been made to the proposed rule as a result of this comment.

COMMENT #29: Gabe Jertberg requests that the department remove from 19 CSR 100-1.120(1)(C)2.A. "or botanically derived terpenes" as Terpenes, both cannabis-derived and strain specific, are common to the industry in many products. A single cannabis product can have over a dozen individual terpenes, depending on the terpene blend and the manufacturer's specifications. Terpenes are neither an intoxicating, nor a regulated substance – mandating that all terpenes be included individually on a product label will consume labeling space that is needed to remain in compliance with the additional labeling requirements imposed by DHSS and is an unnecessary mandate.
RESPONSE: The purpose of this provision is to ensure that all ingredients in the product are identifiable by a purchaser or user of the product, for public health and safety reasons. No changes have been made to the proposed rule as a result of this comment.

COMMENT #30: Missouri Department of Health and Senior Services staff suggested correcting the misspelling of the word botanically in 19 CSR 100-1.120(1)(C)2.A. and add language pertaining to solvents used in the manufacturing process to account for individuals with solvent allergies.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.120(1)(C)2.A. was revised to correct the misspelling and to add the requested language pertaining to solvents.

COMMENT #31: Missouri Department of Health and Senior Services staff commented about 19 CSR 100-1.120(1)(C)2.B. that comprehensive licensees are not required to differentiate between medical and non-medical - and comprehensive can take to medical - should both be required on the label (except for medical cultivators and manufacturers)? Suggest changing the language to require servings and doses for comprehensive and microbusinesses and doses for medical licensees.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.120(1)(C)2.B. has been revised to reflect this suggestion.

COMMENT #32: Missouri Department of Health and Senior Services staff suggested removing 19 CSR 100-1.120(1)(C)2.E., as 19 CSR 100-1.120(3) requires the licensee that packaged the product be the same licensee from which the final product originated.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.120(1)(C)2.E. was removed, consistent with this comment.

COMMENT #33: Missouri Department of Health and Senior Services staff suggested revising 19 CSR 100-1.120(1)(C)2.F. and G. to change "lab" to "licensee," to add the word "final" before "marijuana product," to change "required" to "mandatory," and to change "final testing results" to "mandatory testing results" for consistency throughout the rules and for clarification that the only testing licensees this list is concerned with is the one that tested the final product.
RESPONSE AND EXPLANATION OF CHANGE: What is now 19 CSR 100-1.120(1)(C)2.E. and F. were revised to address these changes.

COMMENT #34: Alissa Farquhar and Adolphus Busch commented that 19 CSR 100-1.120(1)(C)2.G. is duplicated information being requested to be put on the label. This number would not serve any purpose for the consumer because they don't have access to METRC. The state wide track and trace tag number that is on the package contains this information. It can cause confusion for licensees, customers, patients, and DHSS.
RESPONSE: The tag number is necessary to help the Department investigate if a consumer, patient, or caregiver complains about a product they purchased. No changes have been made to the proposed rule as a result of this comment.

COMMENT #35: Adolphus Busch commented about 19 CSR 100-1.120(1)(C)2.H., "The exact total weight? Aka the "Net Weight"? It is already required with the THC symbol. Should we choose one location to increase room on the packaging for things like the strain name, terpenes, and other important information the patients and consumers request? I believe the answer to this should be yes. We need to have what is needed but not an overabundance of repetitive information."
RESPONSE: The marijuana symbol is only required to list the amount of THC in infused products. What is now 19 CSR 100-1.120(1)(C)2.G. applies to all marijuana product except seeds and plants. No changes have been made to the proposed rule as a result of this comment.

COMMENT #36: Amanda Shifflet commented on 19 CSR 100-1.120(1)(C)2.I., "This lists additional cannabinoids that are not in the testing rules. If these are not in the testing rules, they should not be added as many will not catch this for comment. What is the reason for the addition? The cost of including these additional items will almost triple the cost of the standards needed to perform this testing. It will also require all labs to revalidate. The cost and time on this is high, so the reason for the addition should be thoroughly considered, especially as cannabinoids is not a safety test."
RESPONSE AND EXPLANATION OF CHANGE: The two lists have been reconciled, and rule 19 CSR 100-1.110 has been updated. Here, What is now 19 CSR 100-1.120(1)(C)2.I. has been revised to include clarifying parenthetical shorthand for each cannabinoid and corrects references to several that were incorrectly or incompletely referenced.

COMMENT #37: Annie Froeschner commented about 19 CSR 100-1.120(1)(C)2.I., "Currently, labelling for plant material is done in percentage of cannabinoid. This should be clarified."
RESPONSE: Other states allow this measurement to be in percentage of cannabinoid. MO requires it to be listed in milligrams. Milligrams is a better measurement for patient/consumer use. No changes have been made to the proposed rule as a result of this comment.

COMMENT #38: Adolphus Busch commented about 19 CSR 100-1.120(1)(C)2.I., "There is no need for potency of THCV, CBDV, and Delta-8 THC. These cannabinoids will hardly ever show in test results from a lab due to the trace amounts of these cannabinoids in cannabis. Having a rule in place to not allow conversion of cannabinoids using chemical conversion or reactor techniques is great, but requiring companies to list cannabinoids that will never appear in their products is unnecessary, takes up space, and causes confusion. These should be removed."
RESPONSE: These cannabinoids are required to be included, due to recent trends of entities trying to synthetically derive these cannabinoids for inclusion in products. Requiring the exact cannabinoid potency for each of these cannabinoids helps the Department ensure that the numbers for the

cannabinoids referenced in the comment aren't higher than expected for any particular product. No changes have been made to the proposed rule as a result of this comment.

COMMENT #39: Department of Health and Senior Services staff suggested adding to labels the following information: results of terpene analysis, if the terpenes are tested during mandatory testing; instructions for use; and estimated length of time the serving or dosage will have an effect. Adding these would push the warning "Keep out of reach of children" to the last item on the label.
RESPONSE AND EXPLANATION OF CHANGE: A new 19 CSR 100-1.120(1)(C)2.I.–K. were added to reflect this suggestion. "Keep out of reach of children" was moved to a new (1)(C)2.M.

COMMENT #40: Jennifer Rhoads, Gini Fite, and David Mason commented, "Thank you for requiring labeling that states, 'Keep out of reach of children.'"
RESPONSE: This comment does not provide any suggested changes to the rules, just a thank you for the language utilized in 19 CSR 100-1.120(1)(C)2.J. No changes have been made to the proposed rule as a result of this comment.

COMMENT #41: Colleen Dawnson commented with regard to 19 CSR 100-1.120(1)(C)3. that most consumers and patients want to know the total THC of the product because this gives them a better idea of how their bodies will respond to varying amounts. strain name helps many individuals know for sure what they are purchasing, as well as the genetics (i.e. if it is hybrid, sativa, or indica). Lastly, it would be beneficial to consumers and patients if the labels contained at least the top three terpenes and/or overall terpene percentage.
RESPONSE: Total THC is already required by 19 CSR 100-1.120(1)(C)2.G. Genetics are allowed to be included on the packaging, pursuant to (1)(B)5.C. Botanically-derived terpenes are required in the ingredient list, as provided in 19 CSR 100-1.120(1)(C)2.A., and the results of terpene analysis are required if a terpene analysis was done as a part of mandatory testing, pursuant to 19 CSR 100-1.120(1)(C)2.I. No changes have been made to the proposed rule as a result of this comment.

COMMENT #42: Gabe Jertberg requests that the department remove 19 CSR 100-1.120(1)(C)3. completely as this requirement would require a complete overhaul, redesign, and approval of GDF's current packaging, which was pre-approved by DHSS, resulting in hundreds of new submissions and a backlog in approvals. This restriction would also remove certain supplementary information that consumers use when making decisions about which product to purchase, such as "vegan," "gluten free," and "made in Missouri" – statements that ultimately correlate to and impact food safety principles such as customer transparency, consumer decision making, patient health, and overall product integrity.
If implemented, this revised packaging and labeling requirement will not allow producers to display lawful and objectively truthful statements to facilitate patient and consumer basic product knowledge for decision making purposes.The provision denies the licensee an ability to create a brand identity and inform consumers about products; it similarly denies patients, caregivers, and consumers factual information about the substances they are placing in their bodies.
RESPONSE: In response to other comments, packaging will be allowed to include a QR code that could provide the supplementary information discussed in this comment. As discussed in response to other comments, the department will consider issuing waivers for compliance with this rule to provide for a certain "grace period" for licensees to use packaging inventory and establish packaging compliant with the new rule. No changes have been made to the proposed rule as a result of this comment.

COMMENT #43: Andrew Mullins requests that the department delete 19 CSR 100-1.120(1)(C)3. in its entirety or alternatively change 19 CSR 100-1.120(1)(C)3. to read:

3. Marijuana product packaging or labeling may contain some or all of the following information:

a. Bar codes, QR codes, or other machine-readable markings used in connection with inventory tracking or management;

B. Marijuana product packaging may include descriptions and information reasonably relevant to a patient or consumer's purchasing decisions, including but not limited to health warnings (including side effects), behavioral effects one might expect from consuming the product (e.g., causes drowsiness), and product features or attributes (e.g., kosher, sugar free, alcohol free).

RESPONSE: Comment #13 addresses QR codes and indicates a change allowing packaging to include QR codes. These QR codes can provide the information suggested by the comment in B. No changes have been made to the proposed rule as a result of this comment.

COMMENT #44: 19 CSR 100-1.120(2) Mr. Lammert and Gabe Jertberg request that the department delete the requirement that the department approve product design prior to utilization. Mr Lammert suggests that if we do not delete this paragraph, we should add a ten- (10-) day deadline for the department to approve and if not it is automatically approved. Mr. Jertberg points to the department's regulatory and enforcement authority to sanction licensees who violate the rules. Mr. Jertberg also points out that RSMo 195.805 does not require preapproval and suggests that this provision of rule would allow DHSS to act outside of its statutory authority.
RESPONSE: Product and packaging design has strict regulations in order to protect public health, which is specifically identified as one of the intents of Article XIV. Requiring departmental approval before use is a means to ensure compliance with these strict regulations before time and expense is invested in products or packaging that does not comply. Additionally, requiring pre-approval makes it easier for the department to catch the issues rather than having to constantly visit all dispensaries to check their product and packaging and ensure that it abides by the rules. Adding a department deadline for approval, with a consequence of automatic approval if the deadline is not met, is not in line with promoting public health and safety by these regulations. Additionally, there are often factors outside the department's control that affect its ability to process applications. No changes have been made to the proposed rule as a result of this comment.

COMMENT #45: David Bonenberger commented, "The time associated with changing the packaging for all SKUs and associated logistics will be extremely detrimental. Design Time: 2-4 weeks, Pre-Press: 2-6 weeks, Manufacturing: 4-6 weeks, Shipping: 4-8 weeks. Packaging run rate: 8-12 weeks. This could take nearly 8-months to implement, along with the new Approval from DCR/DHSS that fails to have a time in process identified anywhere contained within. A reasonable time standard to allow DCR/DHSS to process packaging approvals needs to be identified and implemented. Operators already have invested heavily in current packaging to meet the current regulations and forcing these new regulations would be an overwhelming financial burden."
RESPONSE: The time concerns raised in this comment are addressed in response to comment 15, regarding a "grace period" that the department will consider granting by way of

waiver in order to allow licensees additional time to get into compliance with this new rule. No changes have been made to the proposed rule as a result of this comment.

COMMENT #46: Adolphus Busch comments "that 19 CSR 100-1.120(2) is not properly thought out. Does the DHSS realize how many brands and products are in Missouri already. The DHSS will spend countless days and hours reviewing packaging dielines and issuing approval numbers. Not to mention, this will cause a huge bottleneck to the industry while the DHSS works on approving all of the packaging. This delays product to makret for the patients, hinders creativity, and is not efficient in any sense of the word. This needs to be reconsidered and eliminated. Approving packaging is great..... once. Then operators should be able to create new versions, flavors, dominances, and varieties of that packaging while applying the same compliance requirements without the approval of the state. If the state believes a licensee is using noncompliant packaging, inspect their packaging and determine at that time."
RESPONSE: Product and packaging design has strict regulations in order to protect public health, which is specifically identified as one of the intents of Article XIV. Requiring departmental approval before use is a means to ensure compliance with these strict regulations before time and expense is invested in products or packaging that does not comply. Additionally, requiring pre-approval makes it easier for the department to catch the issues rather than having to constantly visit all dispensaries to check their product and packaging and ensure that it abides by the rules. No changes have been made to the proposed rule as a result of this comment.

COMMENT #47: Andrew Mullins requests that the department change the language in 19 CSR 100-1.120(2) to read, "Prior to use, all marijuana product designs and packaging designs must be submitted to the department for review of compliance with sections (1)(B) and (C) of this rule and, once approved, will receive an approval number. Within fifteen days of receiving a submission requesting compliance review of a marijuana product design or packaging design, DCR shall deliver a written decision to the licensee."
RESPONSE: There are often factors outside the department's control that affect its ability to process applications. No change has been made to the proposed rule as a result of this comment.

COMMENT #48: Alissa Farquhar commented, "It would be beneficial to change the order of the label requirements, and allow licensees to print on the label static information that is required by this rule. Requesting that this be put on a label is not easy and would result in a font that is not easily readable.
· Ingredients
· Servings or Doses per package
· Manufacturer Name and License Number
· Keep Out of Reach of Children"
RESPONSE: The labeling requirements were carefully thought out, both in content and in order. No changes have been made to the proposed rule as a result of this comment.

COMMENT #49: Missouri Department of Health and Senior Services staff suggested adding a section pertaining to the labeling of marijuana seeds and plants. These provisions should include the requirement for labeling with the word "marijuana" and the universal symbol and should include the strain information and, for plants, the propagation date.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.120(1)(C)3. was moved to (1)(C)4., and a new (1)(C)3. was added to address the comment.

COMMENT #50: Missouri Department of Health and Senior Services staff suggested revising 19 CSR 100-1.120(2) to add that label designs must also be pre-approved, and all designs must comply with section (1). Subparagraphs should be added under (2) that provide how submissions must be made and by whom, and information about the assignment of an approval number. The previous approval number language should be moved to (1)(B)5., as it is information that should be allowed on the packaging.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.120(2) was revised, and (2)(A) and (B) were added, to effectuate the changes suggested in this comment.

COMMENT #51: Missouri Department of Health and Senior Services staff suggested revising 19 CSR 100-1.120(3) to refer to "dispensary licensees" instead of "dispensaries" for consistency.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.120(3) has been revised as suggested.

COMMENT #52: Missouri Department of Health and Senior Services staff suggested adding a provision prohibiting packaging design that allows the required elements to be removed or separated from the package.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.120(5) has been added to address this comment.

COMMENT #53: Missouri Department of Health and Senior Services staff suggested changing 19 CSR 100-1.120(4) to say "rule" instead of "subsection," as the intent is to require compliance with all of 19 CSR 100-1.120.
RESPONSE AND EXPLANATION OF CHANGE: What is now 19 CSR 100-1.120(6) has been revised as suggested.

COMMENT #54: The Missouri Cannabis Trade Association commented "that 19 CSR 100-1.120(1)(B)5. is unconstitutional, in that it (1) violates Article XIV's prohibition on any advertising-related regulation that is "more stringent than comparable state regulations on the advertising and promotion of alcohol sales;" and (2) infringes on the industry licensees' commercial free speech rights. The provision is also unduly burdensome or not reasonable, in that it imposes countless millions of dollars in unnecessary costs on the industry licensees, thereby driving up the price of regulated, tested products and encouraging law-abiding patients and consumers to purchase and consume (inherently unsafe) marijuana products at lower prices from Missouri's thriving illegal marijuana market. The Association suggests deleting this provision altogether."
RESPONSE AND EXPLANATION OF CHANGE: Packaging is not advertising, so restricting it in a more stringent way than the alcohol industry restricts packaging is not prohibited by Article XIV. Requiring plain and uniform packaging promotes two (2) very important government interests: 1. Plain and uniform packaging ensures health and safety information is easy to locate; and 2. Plain and uniform packaging reduces the product's attractiveness to children. Both interests are directly served by imposing this requirement and would pass the intermediate scrutiny of the *Central Hudson* test for restricting commercial speech. This provision does not require licensees to expend "countless millions of dollars in unnecessary costs," as the department has already indicated it intends to grant waivers to allow most licensees to use the product packaging they purchased prior to this law taking effect. Additionally, plain and uniform packaging will ultimately cost less than packaging that utilizes numerous colors. Therefore, the cost should not impact consumers as suggested by the Association. However, the department recognizes the proposed rule was not clear about the number of colors and level of creativity it

allowed and has clarified the language of 19 CSR 100-1.120(1)(B)5.A. The department has also accepted the Association's proposal for clarifying that packaging may include text that communicates expected side effects or behavioral effect in 19 CSR 100-1.120(1)(B)5.C. The changes do not effect the policy of plain and uniform packaging to protect public health and children.

COMMENT #55: The Missouri Cannabis Trade Association commented "that 19 CSR 100-1.120(2) is unconstitutional and its requirements are unduly burdensome or not reasonable, because they will (1) compromise efficient and orderly business operations; (2) unnecessarily delay product development and availability for patients and consumers; and (3) impose additional costs without advancing any rational governmental interest. This provision also arguably conflicts with the General Assembly's intent reflected in § 195.805.4, RSMo."
RESPONSE AND EXPLANATION OF CHANGE: The department recognizes the Association's concern pertaining to efficiency challenges caused by preapproval wait times. Therefore, 19 CSR 100-1.120(2)(B)1.-2. was added to require a departmental deadline for approval or denial subject to a complete application being submitted. The previous (2)(B) has been moved to (2)(C).

19 CSR 100-1.120 Packaging, Labeling, and Product Design

(1) All marijuana product shall be produced, packaged, and labeled in a manner that protects public health and is not attractive to children.

(B) Product and packaging design.

1. No marijuana product or packaging may be designed using the shape or any part of the shape of a human, animal, or fruit, including realistic, artistic, caricature, or cartoon renderings.

2. No marijuana product or packaging may be designed in such a way as to cause confusion between a marijuana product and any product not containing marijuana, such as where products or packaging are visually similar to any commercially similar product that does not contain marijuana.

3. All marijuana product packaging, with the exception of marijuana seeds and plants, shall be resealable, opaque, and certified as child resistant. Where marijuana product is packaged in a series of containers, the container closest to the product, excluding methods of administration or wrappers, must be compliant with this requirement.

4. All marijuana product packaging, with the exception of marijuana seeds and plants, shall be constructed from FDA-approved food contact substances. Where marijuana product is packaged in a series of containers, the container closest to the product, including methods of administration or wrappers, must be compliant with this requirement, unless the department approves application of this rule to a different container in the series.

5. All marijuana product packaging design, including that for exit packaging, may only utilize –

A. Limited colors, including a primary color as well as up to two (2) logos or symbols of a different color or colors, whether images or text, including brand, licensee, or company logos, provided that the widest part of a logo or symbol is no wider than the length or height, whichever is greater, of the word "Marijuana" on the packaging;

B. A product name;

C. Text indicating side effects and behavioral effects of usage;

D. A label required by this rule; and

E. A QR code linking to a website where a purchaser can learn more about the product.

6. Marijuana product packaging must be in compliance with applicable local, state, and federal requirements.

(C) Labeling. Except as specifically identified herein, labeling requirements apply to containers, wrappers, packages, and methods of administration that contain marijuana product, except seeds or plants. The labels required herein are not required on the paper for prerolls.

1. Unless alternative placement of "Marijuana" or the universal symbol has been approved by the department, all marijuana product shall be clearly and conspicuously labeled with "Marijuana" printed at least as large as any other words used, as well as a prominently displayed universal symbol in red and white print that consists of the following:

A. A diamond containing the letters "THC";

B. The letter "M" located under the "THC" within the diamond; and

C. For infused products, the number of milligrams of THC in the package, placed directly under the diamond.

2. Unless alternative placement of a label has been approved by the department, the marijuana product container closest to the product shall bear a label displaying only the following information, in the following order, from top to bottom and left to right:

A. All active and other ingredients, which shall not include groupings of ingredients that obscure the actual ingredients, such as "natural flavors" or "botanically derived terpenes" and shall include solvents used in the manufacturing process;

B. Servings and doses per package for marijuana licensees or doses per package for medical licensees;

C. A "best if used by" date;

D. The license number of the licensed entity from which the final marijuana product originated;

E. The testing licensee where the final marijuana product passed mandatory testing;

F. The state-wide track and trace system tag number associated with the mandatory testing results for the final marijuana product;

G. The exact total weight of the marijuana included in the package –

(I) For dried, unprocessed marijuana, concentrates, prerolls, and infused prerolls, weight shall be listed in grams;

(II) For infused products other than infused prerolls, weight shall be listed by milligrams of delta 9 tetrahydrocannabinol;

H. The exact delta-9-tetrahydrocannabinol (Δ9-THC), delta-9-tetrahydrocannabinolic acid (Δ9-THCA), cannabidiol (CBD), cannabidiolic acid (CBDA), cannabinol (CBN), tetrahydrocannabivarin (THCV), cannabidivarin (CBDV), and delta 8 tetrahydrocannabinol (Δ8-THC) per serving/dose, listed in milligrams;

I. Results of terpene analysis, if tested during mandatory testing;

J. Instructions for use;

K. Estimated length of time the serving or dosage will have an effect;

L. The department-issued product packaging approval number;

M. The following warning: "Cognitive and physical impairment may result from the use of marijuana. Keep out of reach of children."

3. Marijuana seeds and plants shall be clearly and conspicuously labeled with "Marijuana" printed at least as large as any other words used on the packaging and a universal symbol designed as described in this rule.

A. Marijuana seed packaging must bear a label with the strain information.

B. Marijuana plant packaging must bear a label with

the strain information and propagation date.

4. Marijuana product packaging may not contain any information other than that specifically required by this subsection, except information to be in compliance with applicable local, state, and federal requirements.

(2) Prior to use, all marijuana product designs, packaging designs, and label designs must be submitted to the department for review of compliance with section (1) of this rule.

(A) Submission must be made through a department provided, web-based system by the licensee that is responsible for ensuring compliant packaging and labeling, pursuant to section (3) of this rule.

(B) Within thirty (30) days of submission, the department will communicate in writing to the licensee whether the submission is complete.

1. If deemed incomplete, the department will identify reasons why it determined the submission is incomplete and will deny the application.

2. If deemed complete, the submission will be approved or denied within sixty (60) days of the original submission.

(C) Once a design has been approved, the licensee will receive an approval number for the marijuana product, packaging, and label design, as a whole.

(3) All marijuana product shall be compliantly packaged and labeled by the cultivation, manufacturing, or microbusiness wholesale facility providing the final marijuana product for sale except where cultivation or microbusiness wholesale facilities are providing dried, unprocessed marijuana to dispensary licensees for use in creating prerolls or for dispensing directly to consumers or qualifying patients in custom amounts. In such a case, the dispensary facility is responsible for ensuring the product is compliantly packaged and labeled prior to sale.

(4) Final marijuana product shall not be packaged in a manner that exceeds three (3) ounces of dried, unprocessed marijuana, or its equivalent.

(5) Product packaging may not be designed in a manner such that the required elements for packaging and labeling are easily removed or separated from the package, such as placing required information on part of the package that must be removed in order to access the product.

(6) Any violation of this rule shall be punishable by an appropriate and proportional department sanction, up to and including an administrative penalty of five thousand ($5,000) dollars for each product/packaging category, identified by approval number, in which a requirement is violated.

TITLE 19 – DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 100 – Division of Cannabis Regulation
Chapter 1 – Marijuana

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 1.3.(1)(b), 1.3.(2), 2.4(1)(b), and 2.4(4) of Article XIV, Mo. Const., the department adopts a rule as follows:

19 CSR 100-1.130 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on March 1, 2023 (48 MoReg 510-514). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Department of Health and Senior Services received twenty-seven (27) comments on the proposed rule.

COMMENT #1: Sarah Schappe commented, "[19 CSR 100-1.130(1)(C)] requires scales to comply with Accuracy Class I & II parameters. These should be incorporated by reference."
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.130(1)(C) has been revised to revise the requirement and remove the parameters discussed in the comment and instead require the scales to comply with Chapter 413, RSMo. A new paragraph (1)(C)1. was created to clarify the new requirements.

COMMENT #2: Missouri Department of Health and Senior Services staff suggested amending 19 CSR 100-1.130(1)(C) to include "and marijuana waste."
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.130(1)(C) was revised to reflect this comment.

COMMENT #3: Missouri Department of Health and Senior Services staff suggested amending 19 CSR 100-1.130(2)(A)4. to include the word "offered" in order to better align with the processes that are already in place.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.130(2)(A)4. was revised to reflect this comment.

COMMENT #4: Missouri Department of Health and Senior Services staff suggest amending 19 CSR 100-1.130(2)(A)4.A. to include the word "offered" in order to better align with the process that are already in place.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.130(2)(A)4.A. was revised to reflect this comment.

COMMENT #5: Missouri Department of Health and Senior Services staff suggested including in 19 CSR 100-1.130(2)(D)1. the words "receiving the department's written approval to do so and" after "no certified seed-to-sale tracking system entities may begin operations before" for clarification purposes.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.130(2)(D)1. was revised to reflect this comment.

COMMENT #6: Missouri Department of Health and Senior Services staff pointed out in 19 CSR 100-1.130(2)(E)1. there was an additional space between "restrict," and "suspend" and requested the spacing be corrected.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.130(2)(E)1. was revised to reflect this change.

COMMENT #7: Jennifer Rhoads, Gini Fite, and David Mason requests that the department consider adding a rule in 19 CSR 100-1.130 that would require seed-to-sale tracking systems to produce analytical reports to the department regarding milligrams of THC per product type sold. This addition would help the department track the sale of high potency THC and monitor any trends regarding traffic fatalities, impaired driving infractions, and health epidemiology trends regarding increased sales of these high potency products.
RESPONSE: This type of information is based on vendor capability and as such is not appropriate for rule. No change has been made to the rule as a result of this comment.

COMMENT #8: Andrew Lammert requests the department remove "and log the inspection" from section 19 CSR 100-

1.130(1)(C) due to it being unduly burdensome.
RESPONSE: The department wants the licensees to inspect the scales, but such inspection could not be verified if not logged. No changes have been made to the proposed rule as a result of this comment.

COMMENT #9: Gabe Jertberg requests that the department remove section 19 CSR 100-1.130(1)(C)1. completely as "creating an inspection log that is dependent on a timeline of "prior to use" is an arbitrary timeline that creates unclear expectations – for example: would staff be expected to re-record scale measurements when returning from break? Comparable industries that are dependent on weight requirements (trucking, food production, agriculture) generally specify either annual recalibration (which is already a requirement) or following the manufacturer's instructions for recalibrating scales. Additionally, facilities are equipped with upwards of several dozen scales. This, in conjunction with the five-year record retention requirement, would create a paperwork burden on the staff responsible for recordkeeping scale calibrations multiple times throughout the day."
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.130(1)(C)1. has been revised to change the time frame of the requirement. Due to other changes, this section is now in (1)(C)2.

COMMENT #10: Andrew Lammert suggests adding a definition to 19 CSR 100-1.130(1)(E)3.A. with regards to what a product category is.
RESPONSE: 19 CSR 100-1.010 already defines product category. No changes were made to the rule as a result of this comment.

COMMENT #11: Andrew Lammert requests that 19 CSR 100-1.130(1)(G) be deleted as he believes that 1.130(1)(H) and 1.100(6)(F) already cover this issue; or alternatively suggests that the department include the language that was set forth in a guidance document to make it clear the difference between a discrepancy and an error as set forth in 1.130(1)(L)
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.130(1)(G) has been revised to include a definition of discrepancy, and 19 CSR 100-1.130(1)(M)1. has been added to define error.

COMMENT #12: Gabe Jertberg request that the department remove 19 CSR 100-1.130(1)(G) completely "as adjustments in Metrc, when properly used, are a necessary and daily part of recording and correcting inconsistent inventory – for example, adjusting the weight of a package to account for moisture weight change during the drying process. Adjustments are readily and easily viewable by exporting to an excel or PDF report and DHSS has full view and access to facility adjustments and adjustment reasons through the Metrc system. If a serious and unexpected discrepancy is noted, it may very well take longer than 24 hours to conduct an adequate investigation while continuing regular business operations.
In the time that the rule has been effective under the emergency, DHSS has taken the position that the adjustment cannot be made without regulatory approval. However, it is taking several days to weeks for the Department to respond to these reports. During this time, licensees continue to have inventory out of compliance. It becomes particularly difficult for dispensaries to manage with daily reconciliations – to determine whether a discrepancy is old and known, or new and unknown.
If DHSS intends on keeping this rule, then DHSS should, at minimum, clearly define what a discrepancy is to avoid misinterpretation and ambiguity that results in inconsistent guidance and enforcement and clarify that licensees may make adjustments once the issue has been reported to the Department."
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.130(1)(G) has been revised to address this comment.

COMMENT #13: Andrew Mullins requests "that the department clarify the language and definition in 19 CSR 100-1.130(1)(G) or the difference between discrepancies and errors and include them in the revised, final rule, i.e., promulgate the recent guidance into the rule.
Mandatory reporting to DCR any inventory discrepancy prior to entering inventory adjustment creates an unintended gridlock in the supply chain and does not seem to resolve the overarching track/trace concern
Unduly burdensome and not demonstrated to be reasonably necessary for patient or public safety or to restrict access to only licensees and qualifying patients
All licensees are required by rule to ensure the accuracy of information entered in the statewide track and trace system daily. This system is available to the DCR and can be monitored in real time as well as inspected retroactively
Licensees are required to "immediately" correct errors identified within the statewide track and trace system which creates a perpetual record of adjustments and the corresponding discrepancies. This conflicts with the subject draft rule above
Despite all parties' best efforts, inventory discrepancies that do not rise to the level of significant discrepancies are a reality in any industry with comparable volume. Provided subsequent investigation does not indicate inversion, diversion, other criminal activity, or otherwise present a patient or public safety concern, mandatory reporting will have a negative impact on inventory accuracy and unnecessarily burden both licensee and DCR resources. For many licensees, these reports will be submitted daily on a perpetual basis reducing the likelihood of timely and meaningful feedback
Delay in entering adjustments has negative operational implications including, but not limited to, inaccurate product availability for online ordering due to Metrc integrations and will further complicate internal audits and inventory spot checks which need to be based on up-to-the-minute Metrc inventory counts
EXAMPLE: The actual act of reporting and waiting to correct when there is a traceable discrepancy creates a lengthy workflow example:
• Dispensary received 2 more cases of edibles.
• Create ticket in Metrc for a virtual transfer.
• Notify DCR Compliance Officer
• Wait for follow up and okay to create a virtual transfer.
• Make correction/manifest
• During this process delivery drivers are waiting at the store tying up the stores personnel as well while it's getting corrected
There are instances where CO is out in the field, or unable to get to things quickly. Creates a lengthy delay / supply chain gridlock when this is something that Seed-to-Sale tracks and documents."
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.130(1)(G) has been revised to address this comment.

COMMENT #14: Gabe Jertberg request the department remove from 19 CSR 100-1.130(1)(I)1. "of any size" as clones are not considered viable plants until they are entered into the "vegetative" stage, as defined by METRC and the department. All plants are already accounted for and available for department review within the system.
RESPONSE: This requirement in rule memorializes the requirement the commenter mentions, that these plants be accounted for and available for department review within the

system. No changes have been made to the proposed rule as a result of this comment.

COMMENT #15: Gabe Jertberg request that the department remove 19 CSR 100-1.130(1)(I)2.A. completely as these are redundant and arbitrary requirements that will only burden cultivation staff with menial tasks that are already required by regulation to be kept – all records of cultivation inputs are already required to be a) tracked and inspected during the annual inspection; b) made available for review at the request of DHSS; and c) retained for five (5) years.
Additionally, the Environmental Protection Agency ("EPA") Worker Protection Standard mandates that SDSs be made readily available for all chemicals stored on-site at the facility. Requiring staff to also transcribe this information into the track and trace system is not in alignment with the intent of the system's use (to track marijuana from seed-to-sale) and will ultimately slow down priority cultivation operations considerably.
RESPONSE: By requiring licensees to log things in the state-wide track and trace system, the department is ensuring that the licensees are giving the department access to the information it requires. No changes have been made to the proposed rule as a result of this comment.

COMMENT #16: Gabe Jertberg request the department remove 19 CSR 100-1.130(1)(I)2.B. completely as these are redundant and arbitrary requirements that will only burden cultivation staff with menial tasks that are already required by regulation to be kept – all records of cultivation inputs are already required to be a) tracked and inspected during the annual inspection; b) made available for review at the request of DHSS; and c) retained for five (5) years.
Additionally, the Environmental Protection Agency (EPA) Worker Protection Standard mandates that SDSs be made readily available for all chemicals stored on-site at the facility. Requiring staff to also transcribe this information into the track and trace system is not in alignment with the intent of the system's use (to track marijuana from seed-to-sale) and will ultimately slow down priority cultivation operations considerably.
RESPONSE: By requiring licensees to log things in the state-wide track and trace system, the department is ensuring that the licensees are giving the department access to the information it requires. No changes have been made to the proposed rule as a result of this comment.

COMMENT #17: Alissa Farquhar states that while doing the requirements in 19 CSR 100-1.130(1)(I)3. for the past two (2) months, it has proven to be a challenging task. DCR is not providing timely responses for items to be corrected for any discrepancies to be corrected that have been logged.
RESPONSE: This comment does not propose a change to the rule. No changes have been made to the proposed rule as a result of this comment.

COMMENT #18: Gabe Jertberg requests that the department remove 19 CSR 100-1.130(1)(I)3. completely as this requirement should be removed as all inventory audit records are already required to be maintained on-site and made available to the Department for review at any time by regulation. Imposing a monthly reporting requirement to DHSS, including all adjustments made during cultivation, is a redundant requirement that will only burden cultivation departments with unnecessary and repetitive reporting of records that are already kept and contribute to the department's increasing workload of paperwork review.
RESPONSE AND EXPLANATION OF CHANGE: This requirement in rule memorializes the requirement the commenter mentions, that these ingredients be recorded in the state-wide track and trace system. The requirement has been moved up to 19 CSR 100-1.130(1)(I) and reworded for clarification and to apply the same requirements to all licensees. (1)(I)3. has been deleted, "and" was added to what is now (1)(J)1., and "and" was deleted from what is now (1)(J)2.B.

COMMENT #19: Gabe Jertberg requests that the department remove 19 CSR 100-1.130(1)(J)3. completely as they are redundant requirements – all active/inactive ingredients and dosage are already recorded in METRC under "Item Master", and dosage amount is required to regulation to be listed on the outermost package facing the consumer or patient. This requirement would place an additional transcription burden ("busy work") on production staff when all information required to be input by this proposition is already readily available by DHSS and the general public.
RESPONSE: This requirement in rule memorializes the requirement the commenter mentions, that these ingredients be recorded in the state-wide track and trace system. No changes have been made to the proposed rule as a result of this comment.

COMMENT #20: Gabe Jertberg request that the department remove 19 CSR 100-1.130(1)(J)4. completely as they are redundant requirements – all active/inactive ingredients and dosage are already recorded in METRC under "Item Master", and dosage amount is required to regulation to be listed on the outermost package facing the consumer or patient. This requirement would place an additional transcription burden ("busy work") on production staff when all information required to be input by this proposition is already readily available by DHSS and the general public.
RESPONSE: This requirement in rule memorializes the requirement the commenter mentions, that these ingredients be recorded in the state-wide track and trace system. No changes have been made to the proposed rule as a result of this comment.

COMMENT #21: Gabe Jertberg requests that the department remove 19 CSR 100-1.130(1)(J)5. completely as all inventory audit records are already required to be maintained on-site and made available to the department for review at any time by regulation. Imposing a monthly reporting requirement to DHSS, including all adjustments made during production, is a redundant requirement that will only burden manufacturing departments with unnecessary and repetitive reporting of records that are already kept and contribute to the department's increasing workload of paperwork review.
RESPONSE AND EXPLANATION OF CHANGE: This requirement in rule memorializes the requirement the commenter mentions, that these ingredients be recorded in the state-wide track and trace system. However, because this requirement has been move to 19 CSR 100-1.130(1)(I), (1)(J)5. has been deleted, "and" has been added to (1)(J)3., and "and" has been removed from (I)(J)4.

COMMENT #22: Gabe Jertberg requests that the department remove 19 CSR 100-1.130(1)(N) completely as licensees are currently required to submit standard operating procedures to the department outlining protocols for staff to follow in the event of a loss of connectivity to the seed-to-sale tracking system. Facility actions should not be ceased, rather the facility should refer to their department-approved SOPs for guidance and correcting when connection is restored.
RESPONSE: The department doesn't approve a facilities SOPs, if they are losing connection they won't have a way of putting

the requisite information into the system. No changes have been made to the proposed rule as a result of this comment.

COMMENT #23: Missouri Department of Health and Senior Services staff suggested amending 19 CSR 100-1.130(1), (1)(D), (1)(I), (1)(K), (1)(L), and (2)(E)2. to remove "facility" before all references "licensees" for consistency throughout the rules.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.130(1), (1)(D), (1)(I), (1)(K), (1)(L), and (2)(E)2. have been revised to remove "facility" before "licensee."

COMMENT #24: Missouri Department of Health and Senior Services staff suggested clarifying language in 19 CSR 100-1.130(1)(C)2. (which is now (1)(C)3. due to other changes) to indicate that there is only one (1) scale inspection log required by this rule.
RESPONSE AND EXPLANATION OF CHANGE: What is now 19 CSR 100-1.130(1)(C)3. has been revised for clarity as suggested.

COMMENT #25: Missouri Department of Health and Senior Services staff suggested removing "NTEP" from 19 CSR 100-1.130(1)(C)3. (now (1)(C)4.), as it is unnecessary.
RESPONSE AND EXPLANATION OF CHANGE: What is now 19 CSR 100-1.130(1)(C)4. has been revised as suggested.

COMMENT #26: Missouri Department of Health and Senior Services staff suggested removing the reference to its website from 19 CSR 100-1.130(2)(A)4.B., consistent with its removal throughout the chapter.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.130(2)(A)4.B. has been revised as suggested.

COMMENT #27: Missouri Department of Health and Senior Services staff suggested removing the extra space before "suspend" in 19 CSR 100-1.130(2)(E)1.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.130(2)(E)1. has been revised as suggested.

19 CSR 100-1.130 Inventory Control and Seed-to-Sale Tracking

(1) Inventory control systems and procedures. All licensees shall implement inventory control systems and procedures as follows:

(C) All weighing and measuring of marijuana product and marijuana waste required by this rule must be conducted with a National Type Evaluation Program (NTEP) approved scale, which shall be recalibrated by a certified entity at least yearly.

1. Scales shall be tested and approved in accordance with the requirements in Chapter 413, RSMo, prior to being placed into service.

2. Facility agents shall inspect and log the inspection of each scale to verify it is clean and reading accurately at least once a month and each time the scale is moved.

3. Scale inspection logs shall indicate the date, method of accuracy verification, and by whom the accuracy is verified.

4. The licensee's scale shall be designed for the type of weighing or measuring needed for the licensee's facility type;

(D) Each licensee shall use the state-wide track and trace system as its system of record to track marijuana product from seed or immature plant stage until the marijuana product is either purchased by a consumer, qualifying patient, or primary caregiver; expended during testing; or destroyed;

(G) Discrepancies in marijuana product inventory records shall not be corrected by entering an inventory adjustment without first being documented, investigated by management personnel, and reported to the department within twenty-four (24) hours of discovering the discrepancy. A discrepancy is a situation where the marijuana product may not be accounted for physically or in the state-wide track and trace system;

(I) Licensees must provide to the department a monthly physical inventory report that includes all adjustments and adjustment reasons and that demonstrates the physical inventory reconciles with the inventory recorded in the state-wide track and trace system;

(J) Cultivation licensees must –

1. Report in the state-wide track and trace system all seeds and all plants of any size; and

2. Report in the state-wide track and trace system, by plant or location –

A. All pesticides, herbicides, fertilizers, and other agricultural chemicals applied to marijuana plants and growing medium during production and processing at its facility; and

B. All ingredients contained in each pesticide, herbicide, fertilizer, and other agricultural chemical applied to the marijuana plants and growing medium during production and processing at its facility.

(K) Manufacturing licensees shall –

1. Establish and maintain a perpetual inventory system that documents the flow of all non-marijuana materials through the manufacturing process;

2. Establish procedures to reconcile the raw marijuana material with the finished product on the basis of each process lot;

3. Record in the state-wide track and trace system all active and inactive ingredients in each final manufactured product; and

4. Record in the state-wide track and trace system the serving or, in the case of medical marijuana product, dosage amounts for each final manufactured product.

(L) Dispensary licensees shall be responsible for ensuring that every amount of marijuana product sold or disbursed to a consumer, qualifying patient, or primary caregiver is immediately recorded in the state-wide track and trace system. Amounts of marijuana product shall be recorded –

1. For dried, unprocessed marijuana and prerolls, in grams;

2. For concentrates and infused prerolls, in grams; or

3. For infused products, by milligrams of THC;

(M) All licensees must ensure the accuracy of information entered into the state-wide track and trace system on a daily basis.

1. An error occurs when information is recorded incorrectly into the state-wide track and trace system, but the marijuana product can be accounted for.

2. Errors identified within the system must be immediately corrected. All corrections should be accompanied with a detailed note in the system clearly outlining the error that occurred and the corrective action taken.

3. Errors involving consumer and patient allotments must be reported to the department and corrected in the state-wide track and trace system within twenty-four (24) hours of being identified;

(N) In order to facilitate the use of the state-wide track and trace system, facilities may also employ a department-certified seed-to-sale tracking system that integrates with the state-wide track and trace system; and

(O) In case of seed-to-sale system failure or loss of connection between the seed-to-sale system and the state-wide track and trace system, a licensee must cease performing all actions that are required to be tracked.

1. Upon system restoration, the licensee must confirm all inventory and tracking information is accurately reflected in the state-wide track and trace system.

2. Any such system failure or loss of connection must be reported to the department within three (3) hours of

identifying the seed-to-sale system failure or loss of connection between the seed-to-sale system and the state-wide track and trace system.

(2) Seed-to-sale tracking.

(A) Access to seed-to-sale tracking system certifications.

1. Any entity certified to conduct seed-to-sale tracking for medical marijuana product as of the effective date of this section shall be deemed certified to conduct those activities with respect to all marijuana product.

2. The department will accept applications for seed-to-sale tracking system certifications via the online application system.

3. Incomplete applications for certification of seed-to-sale tracking systems may be denied.

4. The department shall charge an application fee for a seed-to-sale certification and also an annual fee once a certification is offered.

A. The first annual fee will be due thirty (30) days after a certification is offered and shall be due annually on that same date as long as the certification remains valid.

B. The department shall publish the current fees, including any adjustments, on its website. The fees due will be the fee that is effective as of the due date for the fee.

(D) Seed-to-sale tracking system prohibitions.

1. No certified seed-to-sale tracking system entities may begin operations before receiving the department's written approval to do so and signing the department's *Marijuana Application Programming Interface User Agreement*.

2. No seed-to-sale tracking system entity may be owned by or affiliated with an entity that holds a contract with the state of Missouri for any product or service related to the department's marijuana program.

(E) Tracking-related discipline.

1. The department may impose a fine of up to five thousand dollars ($5,000), and may restrict, suspend, or revoke a seed-to-sale tracking system entity certification for the following reasons:

A. Failure of a seed-to-sale tracking system entity to comply with this rule;

B. Failure to abide by the department's *Marijuana Application Programming Interface User Agreement*;

C. Failure of a seed-to-sale tracking system entity to timely interface with the state-wide track and trace system;

D. Persistent failure to interface with the state-wide track and trace system; or

E. Providing false or misleading information to the state-wide track and trace system.

2. If a licensee or its employees or contractors fail to comply with the state-wide track and trace system requirements or intentionally misuses or falsifies state-wide track and trace system tracking data, the department may impose a fine of up to fifty thousand dollars ($50,000), and may restrict, suspend, or revoke the facility's license.

TITLE 19 – DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 100 – Division of Cannabis Regulation
Chapter 1 – Marijuana

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 1.3.(1)(b), 1.3.(2), 2.4(1)(b), and 2.4(4) of Article XIV, Mo. Const., the department adopts a rule as follows:

19 CSR 100-1.140 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on March 1, 2023 (48 MoReg 515-516). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Department of Health and Senior Services received eighteen (18) comments on the proposed rule.

COMMENT #1: Jennifer Rhoads, Gini Fite, and David Mason commented, "There may be a typo in Proposed Rule (4)(G)1. 'in all lighting levels, that are that are installed in manner' where two 'that are' wordings appear."
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.140(4)(G)1. has been amended to correct this typo.

COMMENT #2: J. B. Waggoner commented, "The majority of the rule changes are being presented in the context of the government being compelled to act under emergency rule due to the adoption of a constitutional amendment. The fact remains that much more than what is required by said amendment is being lumped into that action – in other words, under false pretense. Every one of the draft rules being prepared for submission under the emergency rule process is full items that need further review, modification, and in many cases, full redaction."
RESPONSE: This comment does not suggest any changes to the proposed rule. No changes have been made to the proposed rule as a result of this comment.

COMMENT #3: In response to the public and private costs included in the rule, J. B. Waggoner conveyed disbelief.
RESPONSE: 19 CSR 100-1.100 contains the majority of department and private costs, as this is the rule that requires licensees to comply with state and local rules. No changes have been made to the proposed rule as a result of this comment.

COMMENT #4: J.B. Waggoner and Kendra Conti suggested that 19 CSR 100-1.140(2)(C), be revised to allow for transferring samples from lab to lab.
RESPONSE: This is not something the department has chosen to allow. No changes have been made to the proposed rule as a result of this comment.

COMMENT #5: Jennifer Rhoads, Gini Fite, and David Mason thanked the department for requiring production of a valid government-issued photo ID.
RESPONSE: This comment does not provide a suggested change to the rule. No changes have been made to the proposed rule as a result of this comment.

COMMENT #6: Andrew Lammert suggests the following language in 19 CSR 100-1.140(4)(E), "Any vehicle accident, vehicle malfunction that occurs during transport of marijuana product, incident of theft, attempted theft, or loss of marijuana product shall be reported to the department within two (2) hours of becoming aware of the incident."
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.140(4)(E) has been revised to address this comment.

COMMENT #7: J.B. Waggoner commented with regards to 19 CSR 100-1.140(4)(G)2., "This is an example of a fallacy in the rules. As an owner, these cameras are running when I care the least. The most important time is when material is being transferred into and out of the vehicle...in other words, when they are off."

RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.140(4)(G)4. has been added to address this comment.

COMMENT #8: Andrew Lammert suggests adding the following language to 19 CSR 100-1.140(5)(A)2., "Transfer of marijuana product can be done with a motor vehicle or some other means" to make it clear that the transfer can occur either through motor vehicle or via other means.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.140(5)(A)2. has been revised to address this comment.

COMMENT #9: Andrew Lammert requests that 19 CSR 100-1.140(6)(D)5. allow licensed facilities to transfer marijuana between a licensed facility and a different licensees off-site warehouse and to remove the word "not" to allow for this.
RESPONSE: Warehouse storage is a new type of licensure with different security requirements than medical or marijuana facilities. By not allowing this type of transfer, storage, and transportation using the warehouses is more secure. No changes have been made to the proposed rule as a result of this comment.

COMMENT #10: Andrew Lammert requests that 19 CSR 100-1.140(6)(D)6. be changed to allow for offsite warehouses to be allowed in congressional districts outside of the congressional district where the facility is located.
RESPONSE: This requirement is only for dispensaries, since they issued by congressional district. Manufacturers and Cultivators can have warehouses anywhere in the state. No changes have been made to the proposed rule as a result of this comment.

COMMENT #11: Missouri Department of Health and Senior Services staff requests that a subsection be add to 19 CSR 100-1.140(4)(A) that includes language with regards to what a transportation licensee should do with product that is rejected, contaminated, or to be wasted.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.140(4)(A)1. was added, and (4)(B) became (4)(A)2. to address this comment.

COMMENT #12: Missouri Department of Health and Senior Services staff requests that a subsection to 19 CSR 100-1.140(2)(D) be added to ensure marijuana product is stored and transported in a way to prevent contamination and degradation.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.140(2)(D)2. was added to it in order to address this comment, and the previous (2)(D)2. is now (2)(D)3.

COMMENT #13: Missouri Department of Health and Senior Services suggests removing "in accordance with department guidelines" in 19 CSR 100-1.140(5)(B).
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.140(5)(B) was revised in order to address this comment.

COMMENT #14: Missouri Department of Health and Senior Services suggests revising all references to facility licensees to just say "licensee" for consistency throughout the chapter.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.140(1), (2)(A), (2)(C), (3)(A), (4), (5), (5)(A), (6)(A), (6)(C), and (6)(D), were revised in order to address this comment.

COMMENT #15: Missouri Department of Health and Senior Services suggests revising all references to off-site warehouses to just say "warehouse," as warehouse is defined as off-site, so the term is redundant.
RESPONSE AND EXPLANATION OF CHANGE: The phrase "off-site" was removed from 19 CSR 100-1.140(6)(C)2., (6)(D), (6)(D)4., and (6)(D)5. in response to this comment.

COMMENT #16: Missouri Department of Health and Senior Services suggests deleting "marijuana" from "medical marijuana dispensary facility" and "comprehensive marijuana dispensary facility" in 19 CSR 100-1.140(3)(B)1. and 2.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.140(3)(B)1. and 2. have been revised as suggested.

COMMENT #17: Missouri Department of Health and Senior Services suggests adding clarification about what is meant by the word valid in 19 CSR 100-1.140.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.140(3)(D)2. and (4)(C)2.B. have been revised to add a parenthetical clarification behind the word "valid."

COMMENT #18: Missouri Department of Health and Senior Services suggests adding clarification in 19 CSR 100-1.140(6) that warehouses may not share space.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.140(6)(D)7. has been added to address this comment.

19 CSR 100-1.140 Transportation and Storage

(1) Any licensee transporting or storing marijuana product shall comply with the provisions of this section.

(2) Transfer of marijuana product, generally.

(A) A medical or marijuana licensee shall be allowed to transfer marijuana product between facilities, in compliance with the requirements and prohibitions provided in this chapter.

(C) Testing licensees may only transport marijuana product that they intend to test.

(D) The agent transferring marijuana product must –

1. Ensure accuracy of the transportation manifest;

2. Ensure marijuana product is stored and transported in a way that prevents contamination and degradation; and

3. Ensure a secure handoff.

(3) Delivery of marijuana product, generally.

(A) A dispensary licensee or a transportation licensee shall be allowed to deliver marijuana product to consumers, qualifying patients, and primary caregivers in compliance with the requirements and prohibitions provided in this chapter.

(B) Marijuana product may only be delivered as follows:

1. From a medical dispensary facility to a qualifying patient or primary caregiver; or

2. From a comprehensive dispensary facility or microbusiness dispensary facility to a consumer, qualifying patient, or primary caregiver.

(D) At the time of delivery, licensees must –

1. Require production of a qualifying patient or primary caregiver identification card if applicable;

2. Require production of a valid (not expired) government-issued photo ID confirming the identity of the qualifying patient, primary caregiver, or consumer and that a consumer is at least twenty-one (21) years of age;

3. In the case of marijuana plant purchases, require production of a cultivation identification card; and

4. Record the delivery of product in the state-wide track and trace system.

(4) Security requirements related to transportation, except transfers between licensees operating on the same premises.

(A) Licensees authorized by the department to transport marijuana product shall transport all marijuana product from an originating facility to an authorized destination within

thirty-six (36) hours of taking possession of the marijuana product.

1. If the transfer or delivery is unable to be completed for any reason, transportation licensees shall return the marijuana product to the originating licensee.

2. When extenuating circumstances necessitate holding marijuana product longer than thirty-six (36) hours, the licensee transporting the marijuana product shall notify the department of the circumstances and the location of the marijuana product prior to the end of the thirty-six (36) hour transportation deadline.

(B) All transportation must be completed using motor vehicles that are not marked in any way that indicates marijuana product is being transported by that vehicle and that are equipped with at least –

1. A secure lockbox or locking cargo area made of smooth, hard surfaces that are easily cleaned for storing marijuana product during transit;

2. A secure lockbox or lockboxes for storing payments and video monitoring recording equipment during transit;

3. Video monitoring of the driver and passenger compartment and of any space where marijuana product is stored or can be accessed during transit; and

4. GPS tracking.

(C) Facility agents transporting marijuana product shall –

1. Prior to transporting marijuana product, complete and print an inventory manifest for the trip generated from the state-wide track and trace system, which shall be provided by the facility from which the marijuana product is transported;

2. During transport –

A. Have facility agent identification card(s) accessible at all times;

B. Have a valid (not expired) driver's license accessible at all times;

C. Keep a copy of the applicable inventory manifest and trip plan in the transportation vehicle, which shall be within reach of the driver for the duration of the trip; and

D. Have accessible at all times a cell phone or other means to readily communicate with individuals or entities outside the transport vehicle, including law enforcement and the department;

3. The facility agent transporting the marijuana product shall report any vehicle accidents in which the transport vehicle is involved within one (1) hour to law enforcement and the licensed or certificated entity for whom the agent is transporting; and

4. After transport, revise the trip plan to reflect the actual route taken and the end date and time of transportation, and deliver the revised trip plan to a person designated by the transporting entity for this purpose.

(D) Any vehicle accident, vehicle malfunction that occurs during the transport of marijuana product, theft, attempted theft, or loss of marijuana product shall be reported to the department within two (2) hours of the licensee becoming aware of the incident.

(E) All trip plans and revised trip plans shall be maintained by the facility transporting the marijuana product for at least five (5) years.

(F) Video and GPS monitoring in transportation vehicles.

1. Electronic video monitoring for transportation of marijuana product must include video cameras with a recording resolution of at least 1920 x 1080, or the equivalent, at a rate of at least fifteen (15) frames per second, that operate in such a way as to allow identification of people and activities in the monitored space, in all lighting levels, and that are installed in manner that will prevent the video camera from being readily obstructed, tampered with, or disabled.

2. Video cameras must provide coverage of the driver and passenger compartment of the vehicle, and any space where marijuana product is stored or can be accessed during transit, including any doors that lead to where the marijuana product is stored.

3. Licensees must store all recordings from the video cameras and GPS data for at least sixty (60) days in a secure on-site or off-site location or through a service or network that provides on-demand access to the recordings that allows for providing copies of the recordings to the department upon request, in the requested format, at the expense of the licensee.

4. Video monitoring must be active at all times when marijuana product is inside, entering, or exiting the vehicle.

(5) Security requirements related to transfers between licensees operating on the same premises.

(A) Facility agents transferring marijuana product between licensees operating on the same premises shall –

1. Prior to transferring marijuana product, complete and print an inventory manifest generated from the state-wide track and trace system, which shall be provided by the facility from which the marijuana product is transferred.

2. Transfer of marijuana product may be done by motor vehicle or other secure means. During transfer, facility agents must –

A. Have facility agent identification card(s) accessible at all times; and

B. Have a copy of the applicable inventory manifest and trip plan accessible for the duration of the transfer.

(B) Any incident of theft, attempted theft, or loss of marijuana product during transfer shall be reported to the department within two (2) hours of becoming aware of the incident.

(6) Warehouse storage, generally.

(A) Licensees shall be allowed to store marijuana product in compliance with the requirements and prohibitions provided in this chapter.

(C) Licensees shall store all marijuana product –

1. At designated location(s) within the facility where the licensee is approved to operate; or

2. In warehouses that have been approved by the department in writing, pursuant to this chapter.

(D) Licensees that utilize one (1) or more warehouses to store marijuana product must apply for and be granted a separate certificate to operate each warehousing premises.

1. Application requirements are included in the facility applications section of this chapter.

2. Approved warehouse certificates shall be associated with an existing facility license.

3. Transportation licensees will not be granted a warehouse certificate.

4. Transfers between a licensed facility and its warehouse must comply with the transportation security requirements provided in this rule.

5. Transfers may not be made between a licensed facility and a different licensee's warehouse.

6. Warehouses for dispensary licensees must be located within the congressional district in which the underlying facility license was awarded.

7. Warehouses facilities may not share space with any other facility or licensee.

TITLE 19 – DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 100 – Division of Cannabis Regulation
Chapter 1 – Marijuana

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 1.3.(1)(b), 1.3.(2), 2.4(1)(b), and 2.4(4) of Article XIV, Mo. Const., the department adopts a rule as follows:

19 CSR 100-1.150 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on March 1, 2023 (48 MoReg 516-517). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Department of Health and Senior Services received nine (9) comments on the proposed rule.

COMMENT #1: Missouri Department of Health and Senior Services staff suggested including the purpose section, "with the exception of transportation facilities."
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.150's purpose statement has been revised to reflect this comment.

COMMENT #2: Missouri Department of Health and Senior Services staff suggested adding to 19 CSR 100-1.150(2) "video camera names that capture the two angles of destruction" and the word "marijuana" before "product" for clarity purposes.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.150(2) was revised to reflect this comment.

COMMENT #3: Missouri Department of Health and Senior Services staff suggested removing "outside the facility" from 19 CSR 100-1.150(4) to match the definition of facility which is already in the rule.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.150(4) was revised to reflect this comment.

COMMENT #4: Missouri Department of Health and Senior Services staff suggested adding "waste" behind "hazardous," "product waste" behind "Material used to grind with the marijuana," and "product" behind "Other methods to render marijuana," all for clarification purposes.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.150(5)(D)1. was revised to reflect this comment.

COMMENT #5: Missouri Department of Health and Senior Services staff suggested changing the language in 19 CSR 100-1.150(5)(D)2. from "delivered to" to "dispose of at" in order to provide clarification to this section.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.150(5)(D)2. was revised to reflect this comment.

COMMENT #6: Adolphus Busch states "for 19 CSR 100-1.150(2) that in his opinion, this is overkill. Recording waste like this is very time consuming and burdensome. Waste in this industry cannot be used and employees know that. There is now room for diversion here. The waste process becomes unnecessary labor intensive when you have to mix the cannabis waste with 50% non-cannabis waste. They literally watch our waste company dump the cannabis waste and non-cannabis waste directly into a waste truck full of non cannabis waste. Therefore, they are mixing it with several hundred, if not thousands, of pounds of waste right in front of our eyes. It would be great for licensees if this was removed. Waste is waste and it is going to be wasted properly but there is no need for unnecessary work."
RESPONSE: There is a huge amount of wasting of plants and product occurring in these facilities. This requirement is in place to verify that all the things they say they are wasting are actually being wasted. No changes to the rule were made in response to this comment.

COMMENT #7: Gabe Jertberg suggests removing from 19 CSR 100-1.150(4), "locked, tamper resistant receptacle" and replacing it with, "secure receptacle clearly viewable by the facility's surveillance system."
RESPONSE: No changes to the rule were made in response to this comment.

COMMENT #8: Andrew Lammert states "that the language in 19 CSR 100-1.150(5)(D)2. stating permitted solid waste facility is vague and ambiguous and requests the department to clarify."
RESPONSE: Permitted means permitted by the state of MO through the solid waste program. No changes were made to the rule in response to this comment due to it not being vague or ambiguous.

COMMENT #9: Missouri Department of Health and Senior Services staff suggested removing "marijuana or" before "marijuana product" in 19 CSR 100-1.150(1), as marijuana product includes marijuana.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.150(1) has been revised as suggested.

19 CSR 100-1.150 Marijuana Waste Disposal

PURPOSE: Under Article XIV, Sections 1 and 2 of the ***Missouri Constitution****, the Department of Health and Senior Services is authorized to regulate and control the operations of medical and marijuana facilities. This rule explains how licensed and certified facilities, with the exception of transportation facilities, should dispose of any excess or unusable marijuana waste, unwanted marijuana product, or any waste from the facility.*

(1) Unused marijuana product and any solid and liquid wastes generated during marijuana product production and processing must be stored, managed, and disposed of in accordance with applicable state, tribal, local, and municipal laws and regulations. Licensees must keep records of the final disposition of all such wastes for at least five (5) years or longer if required by federal, state, local law.

(2) Each licensee shall maintain a marijuana waste disposal log indicating the date and time, location, video camera names that captured the two (2) angles of destruction, method of destruction, mixing medium, and agent ID(s) of the employee(s) who destroyed the marijuana product.

(5) Wastes from the production and processing of marijuana plants must be evaluated against state hazardous waste regulations to determine if those wastes qualify as hazardous waste. It is the responsibility of each licensee to properly evaluate their waste to determine if it is a hazardous waste per 40 CFR 262.11.

(D) Marijuana product waste that does not qualify as hazardous waste per 40 CFR 262.11 including plant waste, such as, stalks, leaves, and stems, must be rendered unusable prior to leaving a facility.

1. Marijuana product waste that does not qualify as hazardous waste may be rendered unusable by grinding and incorporating the marijuana product waste with other nonhazardous ground materials so the resulting mixture is at least fifty percent (50%) nonmarijuana waste by volume. Material used to grind with the marijuana product waste may be either compostable waste or non-compostable waste. Other methods to render marijuana product waste unusable

must be approved by the department in writing before implementation.

2. Marijuana product waste that has been rendered unusable may be disposed of at a permitted solid waste facility for final disposition. Other final disposition locations must be approved in writing by the department before implementation.

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ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 1.3.(1)(b), 1.3.(2), 2.4(1)(b), and 2.4(4) of Article XIV, Mo. Const., the department adopts a rule as follows:

19 CSR 100-1.160 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on March 1, 2023 (48 MoReg 517-518). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Department of Health and Senior Services received eight (8) comments on the proposed rule.

COMMENT #1: Andrew Lammert suggested changing the language in 19 CSR 100-1.160(2)(A)5. to reflect his suggestion for 19 CSR 100-1.060(3)(I), which read, "For facilities that will be cultivating marijuana, whether the cultivation will be conducted in an indoor, outdoor, or greenhouse space; and if more than one of those spaces will be simultaneously utilized by a facility, the amount of Flowering Plant Canopy Space and/or plants dedicated to each indoor, outdoor or greenhouse space."
RESPONSE: 19 CSR 100-1.160(2)(A)5. provides details pertaining to cultivation practices which make it clear what is meant by the phrase cultivation practice. No changes have been made to the proposed rule as a result of this comment.

COMMENT #2: Andrew Lammert suggests changing the language in 19 CSR 100-1.160(2)(A)5. to, "A medical or comprehensive cultivation facility that combines indoor, outdoor, and/or greenhouse cultivation space will be subject to the limits described above on a pro rata basis based upon the the Flowering Plant Canopy Space or plant count for each space so used."
RESPONSE: This change does not change the meaning or add clarity to the original language. No changes have been made to the proposed rule as a result of this comment.

COMMENT #3: Mark Hendren requests that the department utilize the following language in 19 CSR 100-1.160(2)(B), "Cultivation licensees must provide a reasonable odor control that mitigates odors by" rather than the language that the department set forth.
RESPONSE: This change does not change the meaning or add clarity to the original language. No changes have been made to the proposed rule as a result of this comment.

COMMENT #4: Andrew Mullins suggests change to odor control requirement in 19 CSR 100-1.160(2)(B) to not apply to facilities in rural or unincorporated agricultural areas.
RESPONSE: The department has received complaints in the past from people in rural agricultural areas regarding the odor. No change has been made to the proposed rule as a result of this comment.

COMMENT #5: Missouri Department of Health and Senior Services staff suggested changing 19 CSR 100-1.160(1) to say "cultivation facilities, generally."
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.160(1) was revised to reflect this change.

COMMENT #6: Missouri Department of Health and Senior Services staff suggested adding language to 19 CSR 100-1.160(1)(A)1.-3. making it clear that a cultivation facility may transfer marijuana product.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.160(1)(A)1.-3. was revised to reflect this change.

COMMENT #7: Missouri Department of Health and Senior Services staff suggested changing 19 CSR 100-1.160(2)(C) as follows: change "facility" to "licensee" for consistency throughout the chapter, add the word "product" after "marijuana" for consistency, and change "all required testing" to "mandatory testing" for consistency throughout the chapter.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.160(2)(C) was revised to reflect these changes.

COMMENT #8: Missouri Department of Health and Senior Services staff suggested changing all references from "cultivation facility licensee" to "cultivation licensee" for consistency throughout the chapter.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.160(1)(A) and (B) were revised to reflect this suggestion.

19 CSR 100-1.160 Cultivation Facilities

(1) Cultivation facilities, generally.

(A) A cultivation licensee's authority to engage in the process of cultivating marijuana includes the ability to –

1. Acquire and transfer marijuana, marijuana seeds, and clones from another cultivation facility;

2. Acquire and transfer marijuana seeds from entities not licensed under this chapter if doing so does not violate state or federal law;

3. Acquire and transfer marijuana product from a manufacturing facility or dispensary facility;

4. Cultivate marijuana;

5. Process, package, and store (on- or off-site) marijuana product;

6. Transfer marijuana product to or from its own warehouse storage facility, another cultivation facility, manufacturing facility, or dispensary facility;

7. Transfer marijuana product to a testing facility; and

8. Sell marijuana product to another cultivation facility, manufacturing facility, dispensary facility, or testing facility.

(B) A cultivation licensee's authority to process marijuana shall include the production and sale of prerolls, but shall not include the manufacture of marijuana-infused products.

(2) Cultivation facility and licensee requirements. In addition to this chapter's requirements for licensed facilities and licensees, cultivation facilities and licensees shall also comply with the following:

(A) Cultivation licensees may cultivate marijuana in indoor, outdoor, or greenhouse facilities or in any combination of

these cultivation practices.

1. Each microbusiness wholesale facility utilizing any combination of indoor, outdoor, or greenhouse facilities will be limited to no more than two hundred fifty (250) flowering marijuana plants.

2. Each indoor medical or comprehensive facility utilizing artificial lighting will be limited to no more than thirty thousand (30,000) square feet of flowering plant canopy space.

3. Each outdoor medical or comprehensive facility utilizing natural lighting will be limited to no more than two thousand, eight hundred (2,800) flowering plants.

4. Each medical or comprehensive greenhouse facility using a combination of natural and artificial lighting will be limited to, at the election of the licensee, either no more than two thousand, eight hundred (2,800) flowering plants or no more than thirty thousand (30,000) square feet of flowering plant canopy space.

5. A medical or comprehensive facility that combines indoor, outdoor, and/or greenhouse cultivation space will be limited to a ratio of the limits described above for each applicable cultivation practice, not to exceed one hundred percent (100%) of total allowable flowering plant or flowering plant canopy space.

6. If multiple cultivation licenses are operating in the same facility, the capacity limitations of the cultivation facility will be multiplied by the number of licenses;

(B) Cultivation licensees must mitigate odors from all odor sources by –

1. Developing, implementing, and maintaining an odor control plan, which shall address odor mitigation practices such as system design and operational processes;

2. Engaging a professional engineer or certified industrial hygienist to review the odor control plan and certify that the plan is sufficient to effectively mitigate odors from all odor sources prior to commencing operations; and

3. Maintaining compliance with local ordinances related to odor; and

(C) Marijuana product shall not be transferred to a dispensary facility, unless it is a seed or clone, until the marijuana product has been tested by a testing licensee, according to the provisions of this chapter, and the cultivation licensee has received verification from the testing licensee that the marijuana product passed mandatory testing.

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ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 1.3.(1)(b), 1.3.(2), 2.4(1)(b), and 2.4(4) of Article XIV, Mo. Const., the department adopts a rule as follows:

19 CSR 100-1.170 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on March 1, 2023 (48MoReg 518-519). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Department of Health and Senior Services received ten (10) comments on the proposed rule.

COMMENT #1: Andrew Lammert commented with respect to 19 CSR 100-1.170(1)(A), "Every transfer and sale is tracked in Metrc, so there is no justifiable concern (diversion, child consumption, etc.) for restricting certain marijuana facilities from purchasing and reselling products from another facility type."
RESPONSE: This comment does not present a suggested change to the rule. No changes have been made to the proposed rule as a result of this comment.

COMMENT #2: Jennifer Rhoads, Gini Fite, and David Mason thanked the department for including 19 CSR 100-1.170(2)(E) in the proposed rule.
RESPONSE: This comment does not present a suggested change to the rule. No changes have been made to the proposed rule as a result of this comment.

COMMENT #3: Amanda Shifflet suggests, adding to 19 CSR 100-1.170(2)(G) that manufacturers should have CoAs for all ingredients and/or packaging to ensure they conform to state requirements for marijuana and food or inhaled products.
RESPONSE: All ingredients are required to be tracked, so a certificate of authenticity is unnecessary. No changes have been made to the proposed rule as a result of this comment.

COMMENT #4: Adolphus Busch commented in regard to 19 CSR 100-1.170(2)(G), "What does this mean? It is very vague now. Can you please make this more clear? We need to tack all of our ingredients? Track them where? They are all tracked within our ERP system."
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.170(2)(G) has been deleted, as this requirement is included in 19 CSR 100-1.130, where more detail is provided that adds clarification.

COMMENT #5: Missouri Department of Health and Senior Services staff have suggested adding the ability to transfer, consistent with Article XIV, to 19 CSR 100-1.170(1)(A)1.-3.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.170(1)(A)1.-3. were revised to implement this change.

COMMENT #6: Missouri Department of Health and Senior Services staff suggested for 19 CSR 100-1.170(2)(B) to change the term from "marijuana infused product" to "marijuana product," "facility" to "licensee," and "all required testing" to "mandatory testing" for consistency with the rest of the chapter.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.170(B) was revised to implement this change.

COMMENT #7: Missouri Department of Health and Senior Services staff suggested for 19 CSR 100-1.170(2)(E) to include examples of the tetrahydrocannabinols for clarity purposes.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.170(2)(E) was revised to implement this change.

COMMENT #8: Missouri Department of Health and Senior Services staff suggest for 19 CSR 100-1.170(2)(F) to add clarification that if the product is heated by the patient or consumer and the product becomes an intoxicating cannabinoid at that point the product would fall under this area of rule.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.170(2)(F) was revised to implement this change.

COMMENT #9: Missouri Department of Health and Senior Services staff suggest changing 19 CSR 100-1.170(1)(A) to remove the term "facility" before "licensee" for consistency

throughout the chapter.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.170(1)(A) was revised to reflect this change.

COMMENT #10: Missouri Department of Health and Senior Services staff suggest removing the extra space between "practices" and "such" in 19 CSR 100-1.170(2)(A)1.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.170(2)(A)1. was revised to remove the extra space.

19 CSR 100-1.170 Manufacturing Facilities

(1) Manufacturing facilities, generally.

(A) A manufacturing licensee's authority to engage in the process of manufacturing marijuana-infused products includes the ability to –

1. Acquire and transfer marijuana from a cultivation facility;

2. Acquire and transfer marijuana product from another manufacturing facility to further process;

3. Acquire and transfer marijuana product from a dispensary facility;

4. Process and store (on- or off-site) marijuana product;

5. Manufacture and package marijuana-infused products and prerolls;

6. Transfer marijuana product to or from its own warehouse storage facility, another manufacturing facility, cultivation facility, or dispensary facility;

7. Transfer marijuana product to a testing facility; and

8. Sell marijuana product to another manufacturing facility, cultivation facility, dispensary facility, or testing facility.

(2) Manufacturing licensee requirements. In addition to this chapter's requirements for licensed facilities and licensees, manufacturing licensees shall also comply with the following:

(A) Manufacturing licensees must mitigate odors from all odor sources by –

1. Developing, implementing, and maintaining an odor control plan, which shall address odor mitigation practices such as system design and operational processes;

2. Engaging a professional engineer or certified industrial hygienist to review the odor control plan and certify that the plan is sufficient to effectively mitigate odors from all odor sources prior to commencing operations; and

3. Maintaining compliance with local ordinances related to odor;

(B) Marijuana product shall not be transferred to a dispensary facility until the marijuana product has been tested by a testing licensee, according to the provisions of this chapter, and the manufacturing licensee has received verification from the testing licensee that the marijuana product passed mandatory testing;

(E) Any tetrahydrocannabinol, such as THC-A, Delta-8, or Delta-10, in a marijuana product manufactured by a manufacturing licensee shall only be derived from marijuana cultivated in Missouri by a licensed cultivator; and

(F) Manufactured product may not contain chemical modification, conversion, or synthetic derivation of cannabinoids to produce intoxicating cannabinoid isomers, including those created by heat or other process during use by a patient or consumer, and all cannabinoids acquired from entities other than marijuana facilities for purpose of inclusion in marijuana product must be accompanied by a Certificate of Analysis at time of acquisition that identifies the testing lab that tested the product and lists the product's ingredients.

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ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 1.3.(1)(b), 1.3.(2), 2.4(1)(b), and 2.4(4) of Article XIV, Mo. Const., the department adopts a rule as follows:

19 CSR 100-1.180 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on March 1, 2023 (48 MoReg 519-521). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Department of Health and Senior Services received thirty-five (35) comments on the proposed rule.

COMMENT #1: Shonna Morrison and Lili Schliesser requested that the department consider safeguards that protect our young people, particularly changing the rule allowing people under twenty-one (21) to accompany a parent or guardian who is a patient, primary caregiver, or consumer into dispensaries. Both commented that they do not want to see dispensaries becoming normalized environments for children. They requested a minimum age of twenty-one (21) years to enter dispensaries.
RESPONSE: The department took great care to ensure that children were protected under the current rules. However, the department also took into consideration how liquor stores and pharmacies are treated with respect to allowance of individuals under twenty-one (21) years of age. The department also considered numerous comments, provided before these rules were published to the register, requesting that patients and consumers picking up their marijuana be allowed to bring their children inside the dispensaries with them. No changes have been made to the rules as a result of this comment.

COMMENT #2: Jennifer Rhoads, Gini Fite, and David Mason commented with regards to 19 CSR 100-1.180(2)(H), "could increase compliance with evidence-based harm reduction strategies if additional minimum requirements were added that require dispensary licensees to make available to all consumers, qualifying patients, and primary caregivers educational materials that include "risks of marijuana use to fetuses, and risks of marijuana use to breastfeeding infants" This additional language would also be consistent with Proposed Rule: Physicians and Nurse Practitioners (2) (B)8.D. It would be imperative for dispensaries to provide this information because a qualifying patient's license lasts for three (3) years and the qualifying patient may become pregnant or nurse infants in between physician/nurse practitioner visits where marijuana use is discussed. It is also imperative for all other consumers as they may never discuss risks of marijuana use with their physician/nurse practitioner."
RESPONSE: 19 CSR 100-1.180(2)(H)2.C. already identifies that there are risks of marijuana use by pregnant or breastfeeding women. No changes have been made to the proposed rule as a result of this comment.

COMMENT #3: Related to 19 CSR 100-1.180(2)(B), Andrew Lammert raises concerns regarding prerolls created at a dis-

pensary requiring testing after their creation and the potential for dispensaries choosing not to make their own prerolls due to costs.

RESPONSE: This comment does not propose a change to the rule. No changes have been made to the proposed rule as a result of this comment.

COMMENT #4: Jennifer Rhoads, Gini Fite, and David Mason thanked the department for including 19 CSR 100-1.180(2)(A)2., but requested that the department reanalyze allowing minors to accompany their parents in dispensaries with the fear of creating a cultural norm where kids learn how to buy and use marijuana from their parents.

RESPONSE: The department has carefully considered numerous comments received on this issue prior to the publishing of the proposed rules. No changes have been made to the proposed rule as a result of this comment.

COMMENT #5: Adolphus Busch commented, with regard to 19 CSR 100-1.180(1)(D), "Allowing dispensaries to manufacture prerolls is not smart. 95% of dispensaries were not designed with the intention of producing prerolls. There is no PPE gear worn and there is no sanitary room designated for rolling prerolls. Prerolls rolled in a dispensary are subject to contamination much more so than in a facility designed to manufacture consumer goods. I spent 8 years in the Colorado market and was a budtender for a part of that time. This was allowed back then and prerolls were rolled on the breakroom table while other employees were eating lunch at the same breakroom table.

Please also consider the fact that dispensaries will have to test the product after it is made. All finished product must be tested so then the dispensary is required to contact a lab, deliver the sample, waiting for test results, print labels, and apply multiple labels to the packaging before the product can be sold. Not to mention the thousands of dollars this will cost dispensaries."

RESPONSE: Article XIV specifically authorizes dispensaries to create prerolls. No changes have been made to the proposed rule as a result of this comment.

COMMENT #6: Missouri Department of Health and Senior Services staff suggested adding in 19 CSR 100-1.180(1)(D) language regarding the grinding of marijuana for use in prerolls.

RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.180(1)(D) has been revised to reflect this addition.

COMMENT #7: Missouri Department of Health and Senior Services staff suggested adding to 19 CSR 100-1.180(2)(A)1. "or pickup windows" as an exception to the general public only being able to enter the facility through one public access point.

RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.180(2)(A)1. has been revised to reflect to addition.

COMMENT #8: Missouri Department of Health and Senior Services staff suggested changing in 19 CSR 100-1.180(2)(A)3. the use of the term facility when actually referring to a licensee for clarification purposes.

RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.180(2)(A)3. has been revised to reflect this change.

COMMENT #9: Missouri Department of Health and Senior Services staff suggested adding to 19 CSR 100-1.180(2)(A)3. the words "or pickup window" after drive-through to clarify this section.

RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.180(2)(A)3. has been revised to reflect this change.

COMMENT #10: Missouri Department of Health and Senior Services staff suggested adding to 19 CSR 100-1.180(2)(D)2.B. "used by" between best and by to make this provision clearer.

RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.180(2)(D)2.B. has been revised to reflect this change.

COMMENT #11: Missouri Department of Health and Senior Services staff suggested changing the order of the language in 19 CSR 100-1.180(2)(D)2.A.(I) for clarification purposes.

RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.180(2)(D)2.A.(I) has been revised to reflect this change.

COMMENT #12: Missouri Department of Health and Senior Services staff suggested adding to 19 CSR 100-1.180(2)(D)2.C. language regarding the photo ID being not expired, removing "seed or," and changing "state:" to "jurisdiction."

RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.180(2)(D)2.C. has been revised to reflect this change.

COMMENT #13: Missouri Department of Health and Senior Services staff suggested adding to 19 CSR 100-1.180(2)(D)2.C.(I) "for medical use" to make this section read clearer.

RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.180(2)(D)2.C.(I) has been revised to reflect this change.

COMMENT #14: Missouri Department of Health and Senior Services staff suggested removing from 19 CSR 100-1.180(2)(D)2.C.(III) "or older" as it was redundant.

RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.180(2)(D)2.C.(III) has been revised to reflect this change.

COMMENT #15: Missouri Department of Health and Senior Services staff suggested to change the language in 19 CSR 100-1.180(2)(E) from ingestible to "for oral consumption, including marijuana products such as a tincture" for clarification purposes.

RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.180(2)(E) has been revised to reflect this change.

COMMENT #16: Missouri Department of Health and Senior Services staff suggested revising 19 CSR 100-1.180(2)(F)3.E. by changing "transaction" to "day" and adding "and less than eight (8) inches wide" for clarification purposes.

RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.180(2)(F)3.E. has been revised to reflect this change.

COMMENT #17: Missouri Department of Health and Senior Services staff suggested removing the comma in 19 CSR 100-1.180(2)(H)2.A. for clarification purposes.

RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.180(2)(H)2.A. has been revised to reflect this change.

COMMENT #18: Missouri Department of Health and Senior Services staff suggested changing the word "your" to "a" in 19 CSR 100-1.180(2)(H)2.C. for clarification purposes.

RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.180(2)(H)2.C. has been revised to reflect this change.

COMMENT #19: Missouri Department of Health and Senior Services staff suggested removing a comma in 19 CSR 100-1.180(2)(H)2.D. for clarification purposes.

RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.180(2)(H)2.D. has been revised to reflect this change.

COMMENT #20: Missouri Department of Health and Senior Services staff suggested changing the semi-colon to a period in 19 CSR 100-1.180(2)(H)4. so that it read properly.

RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.180(2)(H)4. has been revised to reflect this change.

COMMENT #21: Missouri Department of Health and Senior Services staff suggested changing 19 CSR 100-1.180(2)(M) from "regulated by the department" to "regulated pursuant to this chapter."
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.180(2)(M) has been revised to reflect this change.

COMMENT #22: Missouri Department of Health and Senior Services staff suggested changing 19 CSR 100-1.180(1) to read "Dispensary Facilities, generally."
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.180(1) has been revised as suggested.

COMMENT #23: Missouri Department of Health and Senior Services staff suggested changing 19 CSR 100-1.180(1) and its subsections to be revised to match cultivation and manufacturing rules of 19 CSR 100-1.160 and 170.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.180(1) and its subsections have been revised as suggested.

COMMENT #24: Missouri Department of Health and Senior Services staff suggested changing references from "facility licensees" to "licensees" throughout 19 CSR 100-1.180 for consistency throughout the chapter.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.180(1)(A), (2)(A), and (2)(A)3. have been revised as suggested.

COMMENT #25: Missouri Department of Health and Senior Services staff suggested revising 19 CSR 100-1.180(1)(D) to clarify what is meant by processing marijuana product at a dispensary facility, consistent with Article XIV and ensuring it is clear that grinding marijuana is not allowed.
RESPONSE AND EXPLANATION OF CHANGE: What is now 19 CSR 100-1.180(1)(A)4. has been revised to effectuate the suggestions in this comment by changing some language and adding new language.

COMMENT #26: Missouri Department of Health and Senior Services staff suggested revising 19 CSR 100-1.180(1)(G) to remove the word "offsite" for consistency throughout the chapter.
RESPONSE AND EXPLANATION OF CHANGE: What is now 19 CSR 100-1.180(1)(A)7. has been revised as suggested.

COMMENT #27: Missouri Department of Health and Senior Services staff pointed out that the number twenty-one (21) was not spelled out in 19 CSR 100-1.180(2)(A)2.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.180(2)(A)2. was revised to spell out "twenty-one" as required in rulemaking.

COMMENT #28: Missouri Department of Health and Senior Services staff suggested revising 19 CSR 100-1.180(2)(B)1. to change "all required" to "mandatory" for consistency throughout the chapter.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.180(2)(B)1. has been changed to reflect this comment.

COMMENT #29: Missouri Department of Health and Senior Services staff suggested revising 19 CSR 100-1.180(2)(B)2. to change the punctuation from a period to a semicolon.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.180(2)(B)2. has been changed to reflect this comment.

COMMENT #30: Andrew Mullins and Andrew Lammert suggested revising 19 CSR 100-1.180(2)(C)1. to replace "close succession" with "one day."
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.180(2)(C)1. has been revised to address the concern raised in this comment.

COMMENT #31: Regarding 19 CSR 100-1.180(2)(F)3., Gabe Jertberg requests that the department remove the limitation that a dispensary may only hold on to a particular plant for five (5) days claiming that five (5) days is not sufficient time and would instead request that this be increased to seven (7) days.
RESPONSE: Licensees and patients, caregivers, or consumers making plant transactions have plenty of time to arrange the pickup time ahead of time. No changes have been made to the proposed rule as a result of this comment.

COMMENT #32: Andrew Lammert, David Bonenberger, and Gabe Jertberg request that the department remove the requirement of 19 CSR 100-1.180(2)(I)3. that a sample be destroyed within five (5) business days of the inventory associated with the mandatory test sample tag number being finished, as it is too burdensome and micromanaging. Inventory can turn over and get replenished in a day or two, requiring unnecessary destruction of a display sample.
RESPONSE: All lots are required to be tracked in the state-wide track and trace system, and the lot is not closed in the system until all of the product is accounted for as destroyed, sold, or disbursed. When marijuana product is used as a display sample, it is pulled from a product lot to be placed on display. If the sample is not destroyed when the remaining product from the lot is exhausted, the lot cannot be closed in the track and trace system. This provision aids in keeping the tracking record clean. No changes have been made to the proposed rule as a result of this comment.

COMMENT #33: Andrew Lammert requests that the department remove the word similarly in 19 CSR 100-1.180(2)(J) when discussing secure locked enclosures that are not considered vaults for storing requirements at night.
RESPONSE: The intent of this provision is to ensure that whatever locked enclosure is used that is not a vault is similarly secure. No changes have been made to the proposed rule as a result of this comment.

COMMENT #34: Missouri Department of Health and Senior Services staff suggested revising 19 CSR 100-1.180(2)(C)1. to clarify the possession limit.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.180(2)(C)1. has been changed to specify "the three (3) ounce possession limit."

COMMENT #35: Jennifer Rhoads, Gini Fite, and David Mason commented, "An addition of a Proposed Rule requiring point of sale signage near payment terminals and mobile payment stations that advises consumers that "the minimum age of purchase is twenty-one (21) and that marijuana sales to persons under twenty-one (21) years of age is a felony" is advised to adequately implement effective evidence-based youth use and misuse strategies."
RESPONSE: This warning appears to be aimed at the facility employees rather than at consumers. Rather than posting a sign for consumers to see, the department has added requirements for employee training to address the concern regarding employees. Insofar as this suggestion is meant to deter individuals under the age of twenty-one (21) from attempting to purchase marijuana without a medical card, the facility employees are required by rule to verify the consumers' ages for each transaction. No changes have been made to this proposed rule as a result of this comment.

19 CSR 100-1.180 Dispensary Facilities

(1) Dispensary facilities, generally.

(A) A dispensary licensee's authority to engage in the process of dispensing marijuana product includes the ability to –

1. Acquire and transfer marijuana, marijuana seeds, clones, and prerolls from a cultivation facility;

2. Acquire and transfer marijuana-infused products and prerolls from a manufacturing facility;

3. Acquire and transfer marijuana product from another dispensary facility;

4. Create and sell prerolls, which does not include the grinding of marijuana for use in prerolls or manufacture of marijuana-infused products;

5. Package and store (on- or off-site) marijuana product and drug paraphernalia used to administer marijuana product;

6. Transport and sell or distribute marijuana product and drug paraphernalia to another dispensary facility, manufacturing facility, cultivation facility, testing facility, or individuals authorized to purchase marijuana product for personal or medical use, as follows:

A. A medical dispensary licensee may only sell or distribute to individuals who are qualifying patients or primary caregivers; and

B. A comprehensive or microbusiness dispensary licensee may sell or distribute to individuals who are consumers, qualifying patients, or primary caregivers; and

7. Transfer marijuana product to or from its own warehouse.

(2) Dispensary facility and licensee requirements. In addition to this chapter's requirements for licensed facilities and licensees, dispensary facilities and licensees shall also comply with the following:

(A) Dispensary licensees must design their facility and staffing in such a way as to accomplish the following:

1. The general public may only enter the facility through one (1) public access point into an area where facility agents shall screen individuals for qualifying patient, primary caregiver, or consumer status. No marijuana product may be accessible in this area. Drive-through or pickup windows shall not constitute an additional access point to the facility;

2. No one under the age of twenty-one (21) may enter any areas beyond the facility's public access point area, unless the individual is a qualifying patient or accompanying a parent or guardian who is a qualifying patient, primary caregiver, or consumer;

3. In any limited access area where marijuana product is accessible within the facility, the licensee must have at least one (1) facility agent present for every three (3) consumers, qualifying patients, or primary caregivers, combined. A facility agent serving a consumer, qualifying patient, or primary caregiver at a drive-through window or pick-up window is not available to accompany a consumer, qualifying patient, or primary caregiver in the limited access area as long as the staff person is serving the drive-through or pickup window consumer, qualifying patient, or primary caregiver;

4. Drive-through lanes and pickup windows must –

A. Utilize drawers or pneumatic tubes for dispensing marijuana product;

B. Provide for clear visibility of the consumer, qualifying patient, or primary caregiver for verification of identity. Drive-through and pick-up windows must either be constructed so that they do not open or remain closed and locked at all times; and

C. Be covered at all times by video camera monitoring and recording that meets the standards described in this chapter; and

5. Dispensary facilities must have posted at each point of egress, and on, beside, or immediately above all drive-through drawers, a department-approved sign that conveys the following warning:

"It is against the law to operate a dangerous device, motor vehicle, aircraft, or motorboat while under the influence of marijuana";

(B) Prior to sale, delivery, or distribution, dispensary licensees shall verify all of the following through the state-wide track and trace system:

1. Any marijuana product the facility sells, delivers, or distributes has been tested by a testing facility, according to the provisions of this chapter, and passed mandatory testing for the product type, including prerolls created at a dispensary facility; and

2. The marijuana product has not been placed on administrative hold, recalled, or ordered or otherwise required to be destroyed;

(C) Dispensary licensees shall not sell, deliver, or distribute to a consumer, qualifying patient, or primary caregiver more marijuana product than the lawful amounts.

1. Licensees may not sell, deliver, or distribute to a consumer more than three (3) ounces of dried, unprocessed marijuana, or its equivalent, in a single transaction and shall report to the department any instances of consumers attempting to make multiple purchases in one (1) day that the licensee knows, or reasonably should know would likely result in the consumer exceeding the three (3) ounce possession limit.

2. Licensees may not sell, deliver, or distribute to a qualifying patient or primary caregiver on behalf of a qualifying patient, any amount of dried, unprocessed marijuana, or its equivalent, that would result in the purchase of more than that qualifying patient's physician- or nurse practitioner-authorized amount;

(D) Transactions.

1. For every transaction, dispensary licensees must receive the transaction order directly from a consumer, qualifying patient, or primary caregiver in person, by phone, or via the internet.

A. If a dispensary licensee receives transactions via the internet, it must ensure that the third party entity providing services for online ordering –

(I) Utilizes security measures sufficient to protect the confidentiality and security of consumer, qualifying patient, and primary caregiver information;

(II) Does not collect or distribute consumer, qualifying patient, or primary caregiver data for use in any way other than for the online ordering process; and

(III) Seeks and obtains appropriate authority from the department for integration with the state-wide track and trace system, if integration is necessary, prior to providing services.

2. At the time of sale or distribution, licensees must –

A. Verify through the state-wide track and trace system that –

(I) Qualifying patients or primary caregivers making marijuana product purchases for medical use are currently authorized to purchase the amount of marijuana product requested;

(II) Consumers purchasing marijuana product do not exceed the purchase limits set forth above; and

(III) A consumer, qualifying patient, or primary caregiver purchasing plants is currently authorized to cultivate marijuana;

B. Verify that the marijuana product is not past its "best if used by" date;

C. Require production of a qualifying patient or primary caregiver identification card if applicable or production of a substantially equivalent identification card issued in another jurisdiction, a valid (not expired) government-issued photo ID, and in the case of marijuana plant purchases, a cultivation identification card. In the case of delivery orders, such documentation must be produced at the time of delivery. Licensees must verify that –

(I) Patients acquiring marijuana product for medical use are at least eighteen (18) years of age or are emancipated individuals under the age of eighteen (18); or

(II) Patients under the age of eighteen (18) have a primary caregiver who is making the acquisition on their behalf; or

(III) All consumers are at least twenty-one (21) years of age;

D. For any transaction involving a qualifying patient, primary caregiver, or personal cultivation purchase, scan the department-issued identification card barcode in order to adequately track purchases in the state-wide track and trace system;

E. Receive payment before the marijuana product leaves the dispensary facility, or, in the case of a delivery order, receive payment at any point in time up until and including the time of delivery.

(I) In the case of a delivery order, payment is subject to refund if the delivery cannot be completed.

(II) If not receiving pre-payment for a delivery order, a dispensary licensee may deliver to no more than two (2) individuals at the same address on the same day; and

F. Record the disbursement of marijuana product, including plants and seeds, in the state-wide track and trace system, even in instances where prices are discounted or waived;

(E) Dispensary licensees that sell marijuana-infused products for oral consumption, including marijuana products such as a tincture, shall ensure the storage and handling of the manufactured product complies with the applicable food safety standards set forth in chapter 19 CSR 20 and any relevant statutes controlling food safety standards;

(F) Dispensary licensees shall only sell marijuana plants acquired from licensed cultivation facilities.

1. Dispensary licensees shall not sell marijuana plants to a consumer, qualifying patient, or primary caregiver who is not currently authorized to cultivate marijuana.

2. Only plants less than eight (8) inches tall and less than eight (8) inches wide may be sold by dispensary licensees, and dispensary licensees may not alter the plant or care for it in any way other than watering and providing light.

3. If a dispensary licensee chooses to sell plants, the transaction shall proceed as follows:

A. Dispensary licensees shall receive an order and payment from a consumer, qualifying patient, or primary caregiver prior to arranging for transfer of the plant from a cultivation facility to the dispensary facility. The dispensary licensee may not hold any particular plant for more than five (5) days;

B. The licensee will schedule a time for the licensed consumer, qualifying patient, or primary caregiver to pick up the order within the five- (5-) day time frame;

C. When the licensee accepts transfer of a plant from a cultivation facility, it must store the plant, with the consumer's, qualifying patient's, or primary caregiver's name and license number, in its vault;

D. If a consumer, qualifying patient, or primary caregiver does not pick up the order, the licensee must dispose of the plant upon expiration of the five (5) days and record the disposal and method of disposal in the state-wide track and trace system; and

E. In a single day, no more than six (6) plants less than eight (8) inches tall and less than eight (8) inches wide may be sold to a consumer or to or on behalf of a particular patient;

(H) Dispensary licensees must make available to all consumers, qualifying patients, and primary caregivers educational materials, whether digital or print, that include at least the following:

1. Local resources for concerns about addiction, including the phone number for the Substance Abuse and Mental Health Services Administration's National Helpline;

2. Information about potential risks and possible side effects of marijuana use, including:

A. Marijuana use affects brain functioning and is likely to cause physical and mental impairment;

B. Those who consume marijuana should not operate a motor vehicle or other similar equipment;

C. Women who are or may become pregnant or are breastfeeding should avoid using marijuana as it may cause pregnancy complications, harm a baby's development, and result in a lower birth weight;

D. Secondhand smoke from marijuana can have psychoactive effects and should be avoided for all children; and

E. The risk of poisoning and the phone number for the Missouri Poison Center;

3. Information about the different ways to administer marijuana product and the differences in the anticipated time frames for the marijuana product to take affect; and

4. The department's contact information and website address;

(J) Dispensary licensees shall store all marijuana product in a locked vault, a similarly secure locked enclosure, or in a warehouse when the facility is closed for business;

(M) Any product of any kind available in a dispensary that is not marijuana product must be displayed separately from marijuana product and in a manner that clearly communicates the non-marijuana product is not regulated pursuant to this chapter.

TITLE 19 – DEPARTMENT OF HEALTH AND SENIOR SERVICES
Division 100 – Division of Cannabis Regulation
Chapter 1 – Marijuana

ORDER OF RULEMAKING

By the authority vested in the Department of Health and Senior Services under sections 1.3.(1)(b), 1.3.(2), 2.4(1)(b), and 2.4(4) of Article XIV, Mo. Const., the department adopts a rule as follows:

19 CSR 100-1.190 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on March 1, 2023 (48 MoReg 521-522). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Department of Health and Senior Services received nine (9) comments on the proposed rule.

COMMENT #1: Missouri Department of Health and Senior Services staff pointed out inconsistency between the language in 19 CSR 100-1.190(1)(A) and Article XIV of the Missouri Constitution language and requested that the language be

fixed to ensure consistency. Additionally, the staff suggested adding more language to clarify what is meant by "obtain" as opposed to "be an owner of" a license. Also, "Marijuana Microbusiness" is not a proper noun and does not need to be capitalized.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.190(1)(A)1. was revised, and (1)(A)2 was added, to address this comment. Additionally, Marijuana Microbusiness in (1)(A) does not need to be capitalized, so that term was revised to begin with lowercase letters.

COMMENT #2: Missouri Department of Health and Senior Services staff suggested revising all references to marijuana microbusiness licenses and marijuana microbusiness facility licenses to remove the words "marijuana" and "facility" for consistency of terminology use throughout the chapter.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.190(1)(A)1., (1)(B), (1)(B)1., (1)(D), (1)(D)1.B., (1)(D)2., (2), (2)(A), and (3)(A) were changed for consistency in response to this comment.

COMMENT #3: Missouri Department of Health and Senior Services staff requested the removal of "in an existing" in 19 CSR 100-1.190(1)(D)2. to make the subsection read clearer as well as including additional language to make it clear what ownership level was affected by this provision.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.190(1)(D)2. was changed to address this comment.

COMMENT #4: Missouri Department of Health and Senior Services staff requested the addition of language in 19 CSR 100-1.190(1)(C) clarifying that an owner may later be deemed ineligible if it is determined that the owner provided false or misleading information or is in violation of other provisions of the chapter affecting owner status.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.190(1)(C) was revised to address this suggestion.

COMMENT #5: Missouri Department of Health and Senior Services staff requested to change some language in 19 CSR 100-1.190(1)(D)1. clarifying that the medical or marijuana facility licenses that a microbusiness licensee may apply for be "other" types of licenses, and changing "window" to "time period."
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.190(1)(D)1. was revised to address this suggestion.

COMMENT #6: Missouri Department of Health and Senior Services staff requested to add language to 19 CSR 100-1.190(1)(D)1. regarding what microbusiness must provide to the department prior to submitting an application for another type of medical or marijuana facility license.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.190(1)(D)1.A. was added to address this concern.

COMMENT #7: Missouri Department of Health and Senior Services staff requested 19 CSR 100-1.190(1)(D)1. be revised for clarity about what is meant by transitioning licensed operations.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.190(1)(D)1 was broken down to include two subsections. (1)(D)1.B. was revised by removing the phrase "licensed operations" and providing clarifying language to address this concern.

COMMENT #8: Missouri Department of Health and Senior Services staff requested 19 CSR 100-1.190(2)(A) be revised to refer to a licensee rather than a licensed facility for consistency throughout the chapter.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.190(2)(A) was revised to satisfy this comment.

COMMENT #9: Missouri Department of Health and Senior Services staff requested 19 CSR 100-1.190(3)(A) and (B) be revised to refer to the microbusiness licensee or facility, where appropriate. In (3)(A), there is a reference to a facility that was intended to apply to a licensee. In (3)(B), there are two references to licensees that were intended to apply to facilities.
RESPONSE AND EXPLANATION OF CHANGE: 19 CSR 100-1.190(3)(A) and (B) were revised to correct these errors.

19 CSR 100-1.190 Microbusinesses

(1) Microbusiness facilities, generally.

(A) Entities must obtain a license to cultivate, manufacture, and dispense marijuana product in Missouri as a marijuana microbusiness. Application requirements are outlined in the application section of this chapter.

1. An entity may apply for and obtain only one (1) license to operate a microbusiness facility, which may be either a microbusiness dispensary facility or a microbusiness wholesale facility. If an entity, which includes an individual, holds an ownership interest in more than one microbusiness license applicant in the same microbusiness application period, all microbusiness applications where the entity holds an ownership interest will be denied.

2. An entity may be an owner of only one (1) license to operate a microbusiness facility, which may be either a microbusiness dispensary facility or a microbusiness wholesale facility.

(B) Applicants for a microbusiness license shall be majority owned and operated by individuals who each meet at least one (1) of the following qualifications:

1. Have a net worth of less than two hundred fifty thousand dollars ($250,000) and have had an income below two hundred fifty percent (250%) of the federal poverty level, or a successor level, as set forth in the applicable calendar year's federal poverty income guidelines published by the U.S. Department of Health and Human Services or its successor agency, for at least three (3) of the ten (10) calendar years prior to applying for a microbusiness license;

2. Have a valid service-connected disability card issued by the United States Department of Veterans Affairs, or successor agency;

3. Be a person who has been, or a person whose parent, guardian, or spouse has been arrested for, prosecuted for, or convicted of a non-violent marijuana offense at least one (1) year prior to the effective date of this section, unless the conviction –

A. Involved provision of marijuana to a minor; or

B. Was for driving under the influence of marijuana;

4. Reside in a ZIP code or census tract area where –

A. Thirty percent (30%) or more of the population lives below the federal poverty level;

B. The rate of unemployment is fifty percent (50%) higher than the state average rate of unemployment; or

C. The historic rate of incarceration for marijuana-related offenses is fifty percent (50%) higher than the rate for the entire state; or

5. Graduated from a school district that was unaccredited, or had a similar successor designation, at the time of graduation, or has lived in a ZIP code containing an unaccredited school district, or similar successor designation, for three (3) of the past five (5) years.

(C) Once an individual owner of a licensed microbusiness facility is deemed eligible for qualifying majority ownership under this rule, subsequent change in circumstances will not affect eligibility. An owner may subsequently be deemed ineligible if the owner provided false or misleading information

or is in violation of other provisions in this chapter affecting owner status.

(D) An owner of a microbusiness facility may not also be an owner of another licensed marijuana or medical facility, except –

1. A microbusiness licensee may apply for other medical or marijuana facility licenses during an application time period.

A. Prior to submitting an application, the microbusiness licensee must notify the department of its status as a microbusiness licensee and notify the department if the licensee is claiming to be in operation for at least a year for purposes of selecting comprehensive licenses in Article XIV Section 2.4(3).

B. If the microbusiness licensee is granted one (1) or more of these licenses, the microbusiness licensee shall transition the existing microbusiness facility to a medical or comprehensive facility on a reasonably practical timetable established by the department, and surrender its microbusiness license.

2. An owner of a microbusiness license who wishes to become an owner in a marijuana or medical license, must relinquish their owner status by relinquishing at least the amount of ownership interest in the microbusiness license that places their ownership interest at or above ten percent (10%), prior to or at the time of department approval of the ownership change.

(2) Microbusiness dispensary licensees, generally.

(A) A microbusiness dispensary facility is licensed to engage in the process of dispensing marijuana product for medical or adult use, in compliance with the dispensary facility rule in this chapter. A microbusiness dispensary licensee may choose to do all or only a subset of the activities authorized under its license.

(B) Microbusiness dispensary licensees shall only acquire marijuana product from a microbusiness wholesale facility or another microbusiness dispensary facility.

(3) Microbusiness wholesale licensees, generally.

(A) A microbusiness wholesale facility is licensed to engage in the process of cultivating and manufacturing marijuana product for medical or adult use, in compliance with the cultivation facility and manufacturing facility rules in this chapter. A microbusiness wholesale licensee may choose to do all or only a subset of the activities authorized under its license.

(B) A microbusiness wholesale licensee may only transfer its products to a testing facility, transportation facility, microbusiness dispensary facility, or to another microbusiness wholesale facility.

TITLE 20 – DEPARTMENT OF COMMERCE AND INSURANCE
Division 2250 – Missouri Real Estate Commission
Chapter 8 – Business Conduct and Practice

ORDER OF RULEMAKING

By the authority vested in the Missouri Real Estate Commission under section 339.120, RSMo Supp. 2022, the commission rescinds a rule as follows:

20 CSR 2250-8.060 Display of License **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on March 1, 2023 (48 MoReg 523). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

The Secretary of State is required by sections 347.141 and 359.481, RSMo, to publish dissolutions of limited liability companies and limited partnerships. The content requirements for the one-time publishing of these notices are prescribed by statute. This listing is published pursuant to these statutes. We request that documents submitted for publication in this section be submitted in camera ready 8 1/2" x 11" manuscript by email to adrules.dissolutions@sos.mo.gov.

NOTICE OF WINDING UP TO ALL CREDITORS OF AND CLAIMANTS AGAINST RH MOS, L.C.

On May 4, 2023, R.H. MOS, L.C., a Missouri limited liability company, filed its Notice of Winding Up for Limited Liability Company with the Missouri Secretary of State. R.H. MOS, L.C. requests that all persons and organizations who have claims against it present them immediately by letter to FOULSTON SIEFKIN LLP, 7500 College Blvd., Suite 1400, Overland Park, KS 66210-4041.

All claims must include the following information: (a) name and address of the claimant, (b) the amount claimed, (c) date on which the claim arose, (d) basis for the claim and documentation thereof, and (e) whether or not the claim was secured and, if so, the collateral used as security.

All claims against R.H. MOS, L.C. will be barred unless a proceeding to enforce the claim is commenced within three (3) years after the date of publication of this notice.

NOTICE OF WINDING UPTO ALL CREDITORS OF AND CLAIMANTS AGAINST AIRPORT BUILDING ASSOCIATES, LLC

On April 26th 2023, Airport Building Associates, LLC, a Missouri limited liability company, filed its Notice of Winding Up for Limited Liability Company with the Missouri Secretary of State. Airport Building Associates, LLC requests that all persons and organizations who have claims against it present them immedi¬ately by letter to Airport Building Associates, LLC c/o Liberty Equities (USA), LC. 7284 W. Palmetto Park Rd. Suite 208, Boca Raton, FL 33433.

All claims must include the following information: (a) name, address and telephone number of the claimant, (b) the amount claimed, (c) date on which the claim arose, (d) basis for the claim and documentation thereof, and (e) whether or not the claim was secured and, if so, the collateral used as security.

All claims against Airport Building Associates, LLC. will be barred unless a proceeding to enforce the claim is commenced within three years after the date of publica¬tion of this notice.

NOTICE OF WINDING UPFOR LIMITED LIABIITY COMPANY TO ALL CREDITORS OF AND CLAIMANTS AGAINST TRIBO VENTURES, LLC

On April 27, 2023, TRIBO Ventures, LLC, a Missouri limited liability company (the "Company"), filed its Notice of Winding Up for Limited Liability Company with the Missouri Secretary of State, effective as of the filing date. You are hereby notified that all persons that have claims against the Company must present them in writing to the Company: Dillon C. Sanders, D.H. Sanders, LLC, 8011 Clayton Road, Suite 300, St. Louis, Missouri 63117. All claims must include (1) the name, address, and telephone number of the claimant; (2) the amount of the claim; (3) the date(s) on which the claim is based occurred; (4) a brief description of the nature of the debt or the basis for the claim and copies of any supporting documentation; and (5) if the claim is secured, and if so, the collateral used as security.

All claims against the Company shall be barred unless a proceeding to enforce the claim is commenced within three years after the publication of this Notice.

NOTICE OF DISSOLUTION TO ALL CREDITORS OF AND CLAIMANTS AGAINST T&T JUILFS FARMS OF MO, LLC

On May 9, 2023, T&T Juilfs Farms of MO, LLC (the "LLC") filed its Notice of Winding Up with the Missouri Secretary of State. The event was effective May 9, 2023.

You are hereby notified that if you believe you have a claim against this T&T Juilfs Farms of MO, LLC, you must submit a summary in writing of the circumstances surrounding your claim to the LLC: Erickson | Sederstrom, P.C., L.L.O., Attn: Blake Schneiderwind, 10330 Regency Parkway Drive, Suite 100, Omaha, NE 68114.

The summary of your claim must include the following information: (a) the name, address and telephone number of the claimant; (b) the amount of the claim; (c) the date on which the event on which the claim is based occurred; (d) a brief description of the nature of the debt or the basis for the claim and (e) copies of any document supporting your claim.

A claim against the limited liability company will be barred unless a proceeding to enforce the claim is commenced within three (3) years after the publication of this notice.

NOTICE OF DISSOLUTION TO ALL CREDITORS OF AND CLAIMANTS AGAINST LADUE BUILDING & ENGINEERING CORPORATION

Ladue Building & Engineering Corporation, a Missouri corporation, filed its Articles of Dissolution with the Missouri Secretary of State. The dissolution was effective on May 5, 2023. Any and all claims against Ladue Building & Engineering Corporation may be sent to Affinity Law Group, LLC, 1610 Des Peres Road, Suite 100, St. Louis, MO 63131. Each claim must include: (i) the name, address, and telephone number of the claimant; (ii) amount of the claim; (iii) basis for the claim; and (iv) documentation of the claim. A claim against Ladue Building & Engineering Corporation will be barred unless a proceeding to enforce the claim is commenced within two (2) years after the publication of this notice.

NOTICE OF WINDING UP TO ALL CREDITORS OF AND CLAIMANTS AGAINST AEROSPACE, L.C.

On May 11, 2023, AEROSPACE, L.C., a Missouri limited liability company, filed its Notice of Winding Up for Limited Liability Company with the Missouri Secretary of State. AEROSPACE, L.C. requests that all persons and organizations who have claims against it present them immediately by letter to AEROSPACE, L.C., c/o John Sutherland, 19602 Highway 59, Country Club, MO 64505-3786.

All claims must include the following information: (a) name and address of the claimant, (b) the amount claimed, (c) date on which the claim arose, (d) basis for the claim and documentation thereof, and (e) whether or not the claim was secured and, if so, the collateral used as security.

All claims against AEROSPACE, L.C. will be barred unless a proceeding to enforce the claim is commenced within three (3) years after the date of publication of this notice.

NOTICE OF WINDING UP TO ALL CREDITORS OF AND CLAIMANTS AGAINST HW-STC DEVELOPMENT COMPANY, LLC, A MISSOURI LIMITED LIABILITY COMPANY

On May 15, 2023, HW-STC Development Company, LLC filed its Notice of Winding Up Limited Liability Company. All persons and organizations with claims against the limited liability company should present them in accordance with the following procedure:

A) In order to file a claim with the limited liability company, you must furnish the following:

i) Name and Address of Claimant

ii) Amount of the claim

iii) Basis for the claim

iv) Documentation of the claim

B) The claim must be mailed to the attorney for the corporation: Lisa A. Johnson, Amundsen Davis LLC at 120 S. Central, Suite 700, St. Louis, MO 63105.

A claim against the limited liability company will be barred unless a proceeding to enforce the claim is commenced within three years after the publication date of this notice as required by statute.

NOTICE OF WINDING UP IS HEREBY GIVEN TO ALL CREDITORS OF AND CLAIMANTS AGAINST St. ANDREWS DEVELOPMENT COMPANY, LLC,

On May 15, 2023, St. Andrews Development Company, LLC filed its Notice of Winding Up Limited Liability Company. All persons and organizations with claims against the limited liability company should present them in accordance with the following procedure:

A) In order to file a claim with the limited liability company, you must furnish the following:

i) Name and Address of Claimant

ii) Amount of the claim

iii) Basis for the claim

iv) Documentation of the claim

B) The claim must be mailed to the attorney for the corporation: Lisa A. Johnson, Amundsen Davis LLC at 120 S. Central, Suite 700, St. Louis, MO 63105.

A claim against the limited liability company will be barred unless a proceeding to enforce the claim is commenced within three years after the publication date of this notice as required by statute.

NOTICE OF WINDING UP IS HEREBY GIVEN TO ALL CREDITORS OF AND CLAIMANTS AGAINST STA-STC DEVELOPMENT COMPANY, LLC, A MISSOURI LIMITED LIABILITY COMPANY

On May 15, 2023, STA-STC Development Company, LLC filed its Notice of Winding Up for Limited Liability Company. All persons and organizations with claims against the limited liability company should present them in accordance with the following procedure:

A) In order to file a claim with the limited liability company, you must furnish the following:

i)Name and Address of Claimant

ii) Amount of the claim

iii) Basis for the claim

iv)Documentation of the claim

B) The claim must be mailed to the attorney for the corporation: Lisa A. Johnson, Amundsen Davis LLC at 120 S. Central, Suite 700, St. Louis, MO 63105.

A claim against the limited liability company will be barred unless a proceeding to enforce the claim is commenced within three years after the publication date of this notice as required by statute.

NOTICE OF DISSOLUTION TO ALL CREDITORS OF AND CLAIMS AGAINST RIVER RIDGE ASSETS, LLC.

On May 15, 2023, River Ridge Assets, LLC, a Missouri limited liability company filed its Articles of Termination with the Missouri Secretary of State. You are hereby notified that if you believe you have a claim against River Ridge Assets, LLC, you must submit a claim in writing with a summary of the circumstances surrounding your claim to: Teresa Owens, 2136 Highway Z, Half Way, Missouri 65663. Each claim shall include the following: (1) the claimant's name, address, and telephone number; (2) the amount of each claim; (3) the date on which each claim occurred; (4) description of the nature of the debt or the basis for each claim; (5) documentation in support of each claim; and (6) if the claim is secured, a description of the collateral used as security.

All claims against River Ridge Assets, LLC will be barred unless a proceeding to enforce the claim(s) is commenced within three years after the publication of this notice.

**NOTICE OF WINDING UP TO ALL CREDITORS
OF AND CLAIMANTS AGAINST EPIC AUTO SALES LLC**

On May 23, 2023, Epic Auto Sales LLC, a Missouri limited liability company ("the Company") filed its Notice of Winding Up for Limited Liability Company with the Missouri Secretary of State. All persons who have claims against the Company are directed to present them in writing to SAIGHMAN LAW, 4505 Madison Ave., Ste. 290, Kansas City, MO 64111.

All claims against the Company will be barred unless the proceeding to enforce the claim is commenced within three (3) years after the publication of this Notice. All claims must include: (1) the name and address of the claimant; (2) the amount claimed; (3) the basis for the claim; (4) the date(s) on which the event(s) on which the claim is based occurred; and (5) all documentation giving rise to the claim.

**NOTICE OF WINDING UP OF LIMITED LIABILITY COMPANY
TO ALL CREDITORS OF AND CLAIMANTS AGAINST TN PECAN FARM, LLC**

On May 12, 2023, TN Pecan Farm, LLC, a Missouri limited liability company ("Company"), filed its Notice of Winding Up with the Missouri Secretary of State, effective on the filing date.

All persons and organizations must submit to Company, c/o Thomas D. Peebles, Jr., Carnahan Evans PC, 2805 S. Ingram Mill Road, Springfield, Missouri 65804, a written summary of any claims against Company, including: 1) claimant's name, address and telephone number; 2) amount of claim; 3) date(s) claim accrued (or will accrue); 4) brief description of the nature of the debt or the basis for the claim; and 5) if the claim is secured, and if so, the collateral used as security.

Because of the dissolution, any claims against Company will be barred unless a proceeding to enforce the claim is commenced within three (3) years after the last of filing or publication of this Notice.

**NOTICE OF DISSOLUTION TO ALL CREDITORS OF AND CLAIMANTS
AGAINST A & G LANDES HOLDINGS, LLC, A MISSOURI LIMITED LIABILITY COMPANY.**

On January 3, 2023, A & G Landes Holdings, LLC, a Missouri limited liability company, filed a notice of winding up with the Missouri Secretary of State. Dissolution was effective on December 30, 2022. Said company requests that all persons and organizations who have claims against it present them immediately by letter to the company c/o Jeff Davison, 700 S Riverside Road, Suite 200, St. Joseph, MO, 64507.

All claims must include:

1) The name and address of the claimant;

2) The amount claimed;

3) The basis for the claim; and

4) The date(s) on which the event(s) on which the claim is based occurred.

NOTICE: Because of the dissolution of A & G Landes Holdings, LLC, any claims against it will be barred unless a proceeding to enforce the claim is commenced within three years after the publication date of the notices authorized by statute, whichever is published last

This cumulative table gives you the latest status of rules. It contains citations of rulemakings adopted or proposed after deadline for the monthly Update Service to the *Code of State Regulations*. Citations are to volume and page number in the *Missouri Register*, except for material in this issue. The first number in the table cite refers to the volume number or the publication year – 47 (2022) and 48 (2023). MoReg refers to *Missouri Register* and the numbers refer to a specific *Register* page, R indicates a rescission, W indicates a withdrawal, S indicates a statement of actual cost, T indicates an order terminating a rule, N.A. indicates not applicable, RAN indicates a rule action notice, RUC indicates a rule under consideration, and F indicates future effective date.

RULE NUMBER	AGENCY	EMERGENCY	PROPOSED	ORDER	IN ADDITION
	OFFICE OF ADMINISTRATION				
1 CSR 10	State Officials' Salary Compensation Schedule				47 MoReg 1457
1 CSR 10-1.010	Commissioner of Administration		48 MoReg 304	48 MoReg 959	
1 CSR 10-3.010	Commissioner of Administration		48 MoReg 40	48 MoReg 743	
1 CSR 10-8.010	Commissioner of Administration		48 MoReg 557		
1 CSR 10-11.010	Commissioner of Administration	48 MoReg 789	48 MoReg 796		
1 CSR 15-1.207	Administrative Hearing Commission		47 MoReg 1767	48 MoReg 704	
1 CSR 20-3.070	Personnel Advisory Board and Division of Personnel		48 MoReg 558		
1 CSR 20-4.020	Personnel Advisory Board and Division of Personnel		48 MoReg 558		
1 CSR 20-6.010	Personnel Advisory Board and Division of Personnel		48 MoReg 306	48 MoReg 959	
1 CSR 35-2.060	Division of Facilities Management		48 MoReg 691		
1 CSR 60-1.010	Registration for Prescription Drug Monitoring Program		48 MoReg 559		
	DEPARTMENT OF AGRICULTURE				
2 CSR 30-1.010	Animal Health		48 MoReg 559		
2 CSR 30-1.020	Animal Health		48 MoReg 560		
2 CSR 30-2.004	Animal Health		This Issue		
2 CSR 30-2.010	Animal Health		This Issue		
2 CSR 30-2.020	Animal Health		This Issue		
2 CSR 30-2.040	Animal Health		This Issue		
2 CSR 30-10.010	Animal Health	48 MoReg 303	48 MoReg 306	This Issue	
2 CSR 80-5.010	State Milk Board		48 MoReg 307	This Issue	
2 CSR 90-20.040	Weights, Measures and Consumer Protection		This Issue		
2 CSR 90-21.010	Weights, Measures and Consumer Protection		48 MoReg 41	48 MoReg 959	
2 CSR 90-22.140	Weights, Measures and Consumer Protection		This Issue		
2 CSR 90.23.010	Weights, Measures and Consumer Protection		This Issue		
2 CSR 90-25.010	Weights, Measures and Consumer Protection		This Issue		
2 CSR 100-12.010	Missouri Agricultural and Small Business Development Authority		48 MoReg 912		
2 CSR 100-13.010	Missouri Agricultural and Small Business Development Authority		48 MoReg 915		
	DEPARTMENT OF CONSERVATION				
3 CSR 10-4.111	Conservation Commission		48 MoReg 566		
3 CSR 10-7.410	Conservation Commission		48 MoReg 119	48 MoReg 743	
3 CSR 10-7.431	Conservation Commission		48 MoReg 120	48 MoReg 744	
3 CSR 10-7.433	Conservation Commission		48 MoReg 121	48 MoReg 744	
3 CSR 10-7.440	Conservation Commission			48 MoReg 744	
3 CSR 10-7.450	Conservation Commission		48 MoReg 121	48 MoReg 746	
3 CSR 10-7.455	Conservation Commission		48 MoReg 194	48 MoReg 746	
3 CSR 10-7.700	Conservation Commission		48 MoReg 919		
3 CSR 10-7.705	Conservation Commission			48 MoReg 746	
3 CSR 10-7.710	Conservation Commission			48 MoReg 747	
3 CSR 10-7.900	Conservation Commission		48 MoReg 919	48 MoReg 747	
3 CSR 10-7.905	Conservation Commission			48 MoReg 747	
3 CSR 10-9.240	Conservation Commission		48 MoReg 566		
3 CSR 10-11.110	Conservation Commission		48 MoReg 195	48 MoReg 748	
3 CSR 10-11.111	Conservation Commission		48 MoReg 196	48 MoReg 748	
3 CSR 10-11.112	Conservation Commission		48 MoReg 198	48 MoReg 749	
3 CSR 10-11.120	Conservation Commission		48 MoReg 121	48 MoReg 749	
3 CSR 10-11.180	Conservation Commission		48 MoReg 566		
3 CSR 10-12.110	Conservation Commission		48 MoReg 570		
3 CSR 10-12.115	Conservation Commission		48 MoReg 570		
3 CSR 10-12.135	Conservation Commission		48 MoReg 571		
3 CSR 10-12.140	Conservation Commission		48 MoReg 571		
	DEPARTMENT OF ECONOMIC DEVELOPMENT				
	DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION				
5 CSR 20-100.130	Division of Learning Services		48 MoReg 574		
5 CSR 20-100.230	Division of Learning Services		48 MoReg 307		
5 CSR 20-100.340	Division of Learning Services *formerly 5 CSR 20-400.400*		48 MoReg 200	This Issue	
5 CSR 20-200.275	Division of Learning Services		48 MoReg 955		
5 CSR 20-300.110	Division of Learning Services		48 MoReg 200	This Issue	
5 CSR 20-400.400	Division of Learning Services *moved to 5 CSR 20-100.340*		48 MoReg 200	This Issue	
5 CSR 20-400.440	Division of Learning Services		48 MoReg 574		
5 CSR 20-400.510	Division of Learning Services		48 MoReg 574		
5 CSR 20-400.520	Division of Learning Services		48 MoReg 578		
5 CSR 20-400.530	Division of Learning Services		48 MoReg 581		
5 CSR 20-400.540	Division of Learning Services		48 MoReg 584		
5 CSR 20-400.560	Division of Learning Services		48 MoReg 587		
5 CSR 20-500.230	Division of Learning Services		48 MoReg 590		
5 CSR 20-500.300	Division of Learning Services		48 MoReg 435		
5 CSR 20-500.350	Division of Learning Services		48 MoReg 435		

RULE NUMBER	AGENCY	EMERGENCY	PROPOSED	ORDER	IN ADDITION
5 CSR 20-500.360	Division of Learning Services		48 MoReg 436		
5 CSR 25-500.102	Office of Childhood		47 MoReg 1577	48 MoReg 704	
5 CSR 30-261.045	Division of Financial and Administrative Services		48 MoReg 201		
	DEPARTMENT OF HIGHER EDUCATION AND WORKFORCE DEVELOPMENT				
6 CSR 10-2.080	Commissioner of Higher Education		This Issue		
6 CSR 10-2.110	Commissioner of Higher Education		47 MoReg 1767R	48 MoReg 705R	
6 CSR 10-2.195	Commissioner of Higher Education		48 MoReg 595R 48 MoReg 595		
6 CSR 10-2.210	Commissioner of Higher Education		48 MoReg 596R 48 MoReg 597		
6 CSR 10-4.030	Commissioner of Higher Education		48 MoReg 122R	48 MoReg 927R	
6 CSR 10-9.020	Commissioner of Higher Education		48 MoReg 955		
6 CSR 25-1.010	Central Missouri State University		48 MoReg 122R	48 MoReg 927R	
6 CSR 250-1.010	University of Missouri		48 MoReg 122R	48 MoReg 927R	
6 CSR 250-1.020	University of Missouri		48 MoReg 123R	48 MoReg 927R	
6 CSR 250-2.010	University of Missouri		48 MoReg 123R	48 MoReg 928R	
6 CSR 250-2.020	University of Missouri		48 MoReg 123R	48 MoReg 928R	
6 CSR 250-2.030	University of Missouri		48 MoReg 437R	This Issue R	
6 CSR 250-2.040	University of Missouri		48 MoReg 437R	This Issue R	
6 CSR 250-2.050	University of Missouri		48 MoReg 438R	This Issue R	
6 CSR 250-3.010	University of Missouri		48 MoReg 729R		
6 CSR 250-3.020	University of Missouri		48 MoReg 729R		
6 CSR 250-4.010	University of Missouri		48 MoReg 729R		
6 CSR 250-4.020	University of Missouri		48 MoReg 730R		
6 CSR 250-4.030	University of Missouri		48 MoReg 730R		
6 CSR 250-5.010	University of Missouri		48 MoReg 730R		
6 CSR 250-5.020	University of Missouri		48 MoReg 730R		
6 CSR 250-6.010	University of Missouri		48 MoReg 731R		
6 CSR 250-6.020	University of Missouri		48 MoReg 731R		
6 CSR 250-6.030	University of Missouri		48 MoReg 731R		
6 CSR 250-6.040	University of Missouri		48 MoReg 731R		
6 CSR 250-7.010	University of Missouri		This Issue R		
6 CSR 250-7.020	University of Missouri		This Issue R		
6 CSR 250-7.030	University of Missouri		This Issue R		
6 CSR 250-7.040	University of Missouri		This Issue R		
	MISSOURI DEPARTMENT OF TRANSPORTATION				
7 CSR 10-7.010	Missouri Highways and Transportation Commission		48 MoReg 123	This Issue	
7 CSR 10-7.030	Missouri Highways and Transportation Commission		48 MoReg 124	This Issue	
7 CSR 265-9.010	Motor Carrier and Railroad Safety		48 MoReg 125	This Issue	
7 CSR 265-9.020	Motor Carrier and Railroad Safety		48 MoReg 125	This Issue	
7 CSR 265-9.050	Motor Carrier and Railroad Safety		48 MoReg 126	This Issue	
7 CSR 265-9.100	Motor Carrier and Railroad Safety		48 MoReg 126	This Issue	
7 CSR 265-9.110	Motor Carrier and Railroad Safety		48 MoReg 127	This Issue	
	DEPARTMENT OF MENTAL HEALTH				
8 CSR 10-4.200	Division of Employment Security		48 MoReg 311R	This Issue R	
8 CSR 40-2.010	State Board of Mediation		48 MoReg 311	This Issue	
8 CSR 40-2.100	State Board of Mediation		48 MoReg 312	This Issue	
8 CSR 40-2.140	State Board of Mediation		48 MoReg 312	This Issue	
8 CSR 40-2.150	State Board of Mediation		48 MoReg 312	This Issue	
	DEPARTMENT OF MENTAL HEALTH				
9 CSR 10-5.230	Director, Department of Mental Health		48 MoReg 313	48 MoReg 959	
9 CSR 10-7.130	Director, Department of Mental Health		48 MoReg 919		
9 CSR 30-7.010	Certification Standards		47 MoReg 1768	48 MoReg 928	
9 CSR 30-7.020	Certification Standards		48 MoReg 798		
	DEPARTMENT OF NATURAL RESOURCES				
10 CSR 20-7.015	Clean Water Commission		48 MoReg 692		
10 CSR 25-7	Hazardous Waste Management Commission				48 MoReg 754
	DEPARTMENT OF PUBLIC SAFETY				
11 CSR 30-1.010	Office of the Director		48 MoReg 201		
11 CSR 30-8.010	Office of the Director		48 MoReg 202R		
11 CSR 30-8.020	Office of the Director		48 MoReg 202R		
11 CSR 30-8.030	Office of the Director		48 MoReg 202R		
11 CSR 30-8.040	Office of the Director		48 MoReg 202R		
11 CSR 30-9.010	Office of the Director		48 MoReg 203R		
11 CSR 30-9.020	Office of the Director		48 MoReg 203R		
11 CSR 30-9.030	Office of the Director		48 MoReg 203R		
11 CSR 30-9.040	Office of the Director		48 MoReg 203R		
11 CSR 30-9.050	Office of the Director		48 MoReg 204R		
11 CSR 40-2.022	Division of Fire Safety		48 MoReg 127	48 MoReg 930	
11 CSR 45-7.010	Missouri Gaming Commission		47 MoReg 1711	48 MoReg 815	
11 CSR 45-7.120	Missouri Gaming Commission		47 MoReg 1711	48 MoReg 815	
11 CSR 45-7.145	Missouri Gaming Commission		47 MoReg 1712	48 MoReg 815	
11 CSR 45-9.112	Missouri Gaming Commission		47 MoReg 1592	48 MoReg 815	
11 CSR 45-9.123	Missouri Gaming Commission		48 MoReg 136	48 MoReg 960	
11 CSR 45-10.150	Missouri Gaming Commission		48 MoReg 956R		
11 CSR 85-1.030	Veterans Affairs		48 MoReg 732		

RULE NUMBER	AGENCY	EMERGENCY	PROPOSED	ORDER	IN ADDITION
	DEPARTMENT OF REVENUE				
12 CSR 10-1.010	Director of Revenue		48 MoReg 802		
12 CSR 10-1.020	Director of Revenue				48 MoReg 965
12 CSR 10-2.019	Director of Revenue		48 MoReg 920R		
12 CSR 10-2.105	Director of Revenue		This Issue		
12 CSR 10-2.140	Director of Revenue		This Issue		
12 CSR 10-2.436	Director of Revenue	48 MoReg 185	48 MoReg 204	48 MoReg 930	
12 CSR 10-2.725	Director of Revenue		48 MoReg 438		
12 CSR 10-6.030	Director of Revenue		This Issue		
12 CSR 10-16.170	Director of Revenue		48 MoReg 920		
12 CSR 10-23.160	Director of Revenue		This Issue		
12 CSR 10-24.030	Director of Revenue		48 MoReg 439		
12 CSR 10-26.230	Director of Revenue		48 MoReg 440		
12 CSR 10-26.231	Director of Revenue	48 MoReg 353	48 MoReg 441		
12 CSR 10-41.010	Director of Revenue	47 MoReg 1703	47 MoReg 1712	48 MoReg 706	
12 CSR 10-42.050	Director of Revenue		48 MoReg 802		
12 CSR 10-43.020	Director of Revenue		48 MoReg 441		
12 CSR 10-43.030	Director of Revenue		48 MoReg 442		
12 CSR 10-112.020	Director of Revenue		This Issue		
12 CSR 10-113.200	Director of Revenue		48 MoReg 314	48 MoReg 960	
12 CSR 10-113.400	Director of Revenue		48 MoReg 315	48 MoReg 960	
12 CSR 10-114.100	Director of Revenue		48 MoReg 136	This Issue	
12 CSR 30-1.010	State Tax Commission				48 MoReg 965
	DEPARTMENT OF SOCIAL SERVICES				
13 CSR 35-31.100	Children's Division		47 MoReg 1772	48 MoReg 706	
13 CSR 35-60.075	Children's Division		48 MoReg 143	48 MoReg 960	
13 CSR 35-71.095	Children's Division		48 MoReg 315		
13 CSR 70-3.200	MO HealthNet Division	48 MoReg 555	48 MoReg 600		
13 CSR 70-3.230	MO HealthNet Division		48 MoReg 144	48 MoReg 962	
13 CSR 70-4.120	MO HealthNet Division		48 MoReg 921		
13 CSR 70-10.030	MO HealthNet Division	48 MoReg 791	48 MoReg 804		
13 CSR 70-20.042	MO HealthNet Division		47 MoReg 1437 48 MoReg 144	47 MoReg 1786W 48 MoReg 962	
13 CSR 70-20.320	MO HealthNet Division		48 MoReg 734		
13 CSR 70-70.010	MO HealthNet Division		48 MoReg 734		
13 CSR 70-90.010	MO HealthNet Division		47 MoReg 1716	48 MoReg 816	
13 CSR 70-91.010	MO HealthNet Division		48 MoReg 601		
13 CSR 70-97.010	MO HealthNet Division		47 MoReg 1716	48 MoReg 817	
13 CSR 110-5.010	Division of Youth Services		47 MoReg 1772	48 MoReg 706	
	ELECTED OFFICIALS				
15 CSR 30-51.170	Secretary of State		48 MoReg 145	48 MoReg 962	
15 CSR 30-51.172	Secretary of State		48 MoReg 146	48 MoReg 963	
15 CSR 30-200.015	Secretary of State		47 MoReg 1677	48 MoReg 750	
15 CSR 60-17.010	Attorney General	48 MoReg 905			
	RETIREMENT SYSTEMS				
	DEPARTMENT OF HEALTH AND SENIOR SERVICES				
19 CSR 10-10.020	Office of the Director		48 MoReg 316	48 MoReg 964	
19 CSR 10-10.110	Office of the Director		48 MoReg 735		
19 CSR 15-7.005	Division of Senior and Disibility Services		48 MoReg 608		
19 CSR 15-7.010	Division of Senior and Disibility Services		48 MoReg 609		
19 CSR 15-7.021	Division of Senior and Disibility Services		48 MoReg 611		
19 CSR 25-30.021	Missouri State Public Health Laboratory	47 MoReg 1706	47 MoReg 1718	48 MoReg 817	
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19 CSR 50-3.020	Division of Injury Prevention, Head Injury Rehabilitation and Local Health Services		48 MoReg 446R		
19 CSR 50-3.030	Division of Injury Prevention, Head Injury Rehabilitation and Local Health Services		48 MoReg 447		
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20 CSR 2010-4.035	Missouri State Board of Accountancy		48 MoReg 90	48 MoReg 752	
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20 CSR 2110-2.133	Missouri Dental Board	48 MoReg 188	48 MoReg 207	48 MoReg 931	
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20 CSR 2150-2.080	State Board of Registration for the Healing Arts	48 MoReg 34	48 MoReg 91	48 MoReg 752	
20 CSR 2150-7.200	State Board of Registration for the Healing Arts	48 MoReg 37	48 MoReg 93	48 MoReg 752	
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20 CSR 2235-1.020	State Committee Psychologists		48 MoReg 922		
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1 CSR 10-11.010	State of Missouri Travel Regulations	48 MoReg 789	April 3, 2023	Jan. 10, 2024
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2 CSR 30-10.100	Inspection of Meat and Poultry	48 MoReg 303	Jan. 24, 2023	July 22, 2023
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12 CSR 10-2.436	SALT Parity Act Implementation	48 MoReg 185	Jan. 11, 2023	July 9, 2023
12 CSR 10-26.231	Maximum Dealer Administrative Fees	48 MoReg 353	Feb. 14, 2023	Aug. 12, 2023
12 CSR 10-41.010	Annual Adjusted Rate of Interest	47 MoReg 1703	Jan. 1, 2023	June 29, 2023
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13 CSR 35-71.015	Background Checks for Personnel of Residential Care Facilities and Child Placing Agencies	Next Issue	June 13, 2023	Dec. 9, 2023
MO HealthNet Division				
13 CSR 70-3.200	Ambulance Service Reimbursement Allowance	48 MoReg 555	Feb. 22, 2023	Aug. 20, 2023
13 CSR 70-10.020	Prospective Reimbursement Plan for Nursing Facility and HIV Nursing Facility Services	Next Issue	May 31, 2023	Nov. 26, 2023
13 CSR 70-10.030	Prospective Reimbursement Plan for Nonstate-Operated Facilities for ICF/IID Services	48 MoReg 791	March 30, 2023	Sept. 25, 2023
Elected Officials				
Attorney General				
15 CSR 60-17.010	Experimental Interventions to Treat Gender Dysphoria	Next Issue	April 27, 2023	Term. May 16, 2023
Department of Health and Senior Services				
Division of Regulation and Licensure				
19 CSR 30-20.125	Unlicensed Assistive Personnel Training Program	Next Issue	June 6, 2023	Dec. 2, 2023
19 CSR 30-95.010	Definitions	48 MoReg 353	Feb. 3, 2023	Aug. 1, 2023
19 CSR 30-95.020	General Provisions	48 MoReg 354	Feb. 3, 2023	Aug. 1, 2023
19 CSR 30-95.025	Generally Applicable Provisions	48 MoReg 354	Feb. 3, 2023	Aug. 1, 2023
19 CSR 30-95.028	Additional Licensing Procedures	48 MoReg 355	Feb. 3, 2023	Aug. 1, 2023
19 CSR 30-95.030	Qualifying Patient/Primary Caregiver	48 MoReg 355	Feb. 3, 2023	Aug. 1, 2023
19 CSR 30-95.040	Medical Marijuana Facilities Generally	48 MoReg 356	Feb. 3, 2023	Aug. 1, 2023
19 CSR 30-95.050	Cultivation Facility	48 MoReg 356	Feb. 3, 2023	Aug. 1, 2023
19 CSR 30-95.060	Infused Products Manufacturing Facility	48 MoReg 357	Feb. 3, 2023	Aug. 1, 2023
19 CSR 30-95.070	Testing Facility	48 MoReg 357	Feb. 3, 2023	Aug. 1, 2023
19 CSR 30-95.080	Dispensary Facility	48 MoReg 357	Feb. 3, 2023	Aug. 1, 2023
19 CSR 30-95.090	Seed-to-Sale Tracking	48 MoReg 358	Feb. 3, 2023	Aug. 1, 2023
19 CSR 30-95.100	Transportation Facility	48 MoReg 358	Feb. 3, 2023	Aug. 1, 2023
19 CSR 30-95.110	Physicians	48 MoReg 359	Feb. 3, 2023	Aug. 1, 2023
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19 CSR 100-1.010	Definitions	48 MoReg 359	Feb. 3, 2023	Aug. 1, 2023
19 CSR 100-1.020	Generally Applicable Provisions	48 MoReg 363	Feb. 3, 2023	Aug. 1, 2023
19 CSR 100-1.030	Complaints, Inspections, and Investigations	48 MoReg 367	Feb. 3, 2023	Aug. 1, 2023
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19 CSR 100-1.060	Facility Applications and Selection	48 MoReg 384	Feb. 3, 2023	Aug. 1, 2023
19 CSR 100-1.070	Facility Ownership and Employment	48 MoReg 398	Feb. 3, 2023	Aug. 1, 2023
19 CSR 100-1.080	Facility Employee Training	48 MoReg 401	Feb. 3, 2023	Aug. 1, 2023
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19 CSR 100-1.100	Facilities Generally	48 MoReg 403	Feb. 3, 2023	Aug. 1, 2023
19 CSR 100-1.110	Testing	48 MoReg 411	Feb. 3, 2023	Aug. 1, 2023
19 CSR 100-1.120	Packaging, Labeling, and Product Design	48 MoReg 415	Feb. 3, 2023	Aug. 1, 2023
19 CSR 100-1.130	Inventory Control and Seed-to-Sale Tracking	48 MoReg 416	Feb. 3, 2023	Aug. 1, 2023
19 CSR 100-1.140	Transportation and Storage	48 MoReg 422	Feb. 3, 2023	Aug. 1, 2023
19 CSR 100-1.150	Marijuana Waste Disposal	48 MoReg 423	Feb. 3, 2023	Aug. 1, 2023
19 CSR 100-1.160	Cultivation Facility	48 MoReg 424	Feb. 3, 2023	Aug. 1, 2023
19 CSR 100-1.170	Manufacturing Facilities	48 MoReg 425	Feb. 3, 2023	Aug. 1, 2023
19 CSR 100-1.180	Dispensary Facility	48 MoReg 426	Feb. 3, 2023	Aug. 1, 2023

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19 CSR 100-1.190	Microbusinesses	48 MoReg 429	Feb. 3, 2023	Aug. 1, 2023
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Missouri Dental Board				
20 CSR 2110-2.133	Telehealth Dental Pilot Project in Medically Underserved Populations	48 MoReg 188	Jan. 12, 2023	July 10, 2023
State Board of Registration for the Healing Arts				
20 CSR 2150-2.080	Physician Licensure Fees	48 MoReg 34	Jan. 1, 2023	June 29, 2023
20 CSR 2150-7.200	Physician Assistant Licensure Fees	48 MoReg 37	Jan. 1, 2023	June 29, 2023
Missouri Consolidated Health Care Plan				
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22 CSR 10-2.089	Pharmacy Employer Group Waiver Plan for Medicare Primary Members	47 MoReg 1706	Jan. 1, 2023	June 29, 2023

The Secretary of State shall publish all executive orders beginning January 1, 2003, pursuant to section 536.035.2, RSMo.

ORDER	SUBJECT MATTER	FILED DATE	PUBLICATION
	2023		
23-05	Declares drought alerts for 60 Missouri counties in accordance with the Missouri Drought Mitigation and Response Plan	May 31, 2023	Next Issue
23-04	Designates members of the governor's staff as having supervisory authority over each department, division, or agency of state government	April 14, 2023	48 MoReg 911
23-03	Declares a State of Emergency and directs the Missouri State Emergency Operations Plan be activated due to severe storm systems	March 31, 2023	48 MoReg 795
23-02	Extends Executive Order 22-08, the State of Emergency, and waivers until February 28, 2023	January 24, 2023	48 MoReg 433
23-01	Orders the commencement of the Missourians Aging with Dignity Initiative, with directives to support all citizens as they age	January 19, 2023	48 MoReg 431
	2022		
22-11	Extends Executive Order 22-08, the State of Emergency, and waivers until January 31, 2023	December 29, 2022	48 MoReg 193
22-10	Declares that the current State of Emergency shall permit certain vehicles be temporarily exempt from some hours of service requirements	December 21, 2022	48 MoReg 191
22-09	Declares a call and order into active service of the organized militia and directs the Missouri State Emergency Operations Plan be activated due to forecasted severe winter storm systems	December 20, 2022	48 MoReg 189
22-08	Declares a State of Emergency and waives certain regulations to allow other registered entities to fill liquefied petroleum gas containers owned by Gygr-Gas	December 15, 2022	48 MoReg 117
22-07	Extends Executive Order 22-04 to address drought-response efforts until March 1, 2023	November 28, 2022	48 MoReg 39
22-06	Closes executive branch state offices for Friday, November 25, 2022	November 7, 2022	47 MoReg 1708
Proclamation	Convenes the One Hundred First General Assembly in the First Extraordinary Session of the Second Regular Session regarding extension of agricultural tax credits and to enact legislation amending Missouri income tax	August 22, 2022	47 MoReg 1420
22-05	Declares a State of Emergency and directs the Missouri State Emergency Operations Plan be activated due to severe storm systems	July 26, 2022	47 MoReg 1279
22-04	Declares a drought alert for 53 Missouri counties and orders the director of the Department of Natural Resources to activate and designate a chairperson for the Drought Assessment Committee	July 21, 2022	47 MoReg 1277
Proclamation	In accordance with *Dobbs*, Section 188.017, RSMo, is hereby effective as of the date of this order	June 24, 2022	47 MoReg 1075
22-03	Terminates the State of Emergency declared in Executive Order 22-02	February 7, 2022	47 MoReg 411
22-02	Declares a State of Emergency and directs the Missouri State Emergency Operations Plan be activated due to forecasted severe winter storm systems	February 1, 2022	47 MoReg 304
22-01	Establishes and Designates the Missouri Early Childhood State Advisory Council	January 7, 2022	47 MoReg 222

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Administrative Rules Contact Information

General Inquiries
(573) 751-4015
rules@sos.mo.gov

Curtis W. Treat, Editor-in-Chief
(573) 751-2022
curtis.treat@sos.mo.gov

Stephanie Martin, Managing Editor
(573) 522-2196
stephanie.martin@sos.mo.gov

Jacqueline D. White, Publication Specialist II
(573) 526-1259
jacqueline.white@sos.mo.gov

Vonne Kilbourn, Editor II
(573) 751-1818
vonne.kilbourn@sos.mo.gov

Jennifer Alex Moore, Editor
(573) 522-2593
jennifer.moore@sos.mo.gov

Tammy Winkelman, Administrative Aide III
(573) 751-4015
tammy.winkelman@sos.mo.gov