



STATE OF MICHIGAN  
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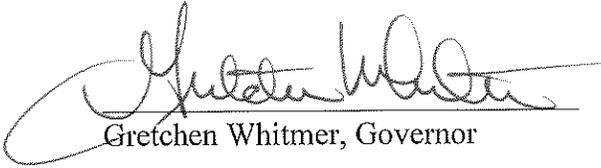
GRETCHEN WHITMER  
GOVERNOR

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LT. GOVERNOR

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MARIJUANA REGULATORY AGENCY  
ADULT-USE MARIHUANA ESTABLISHMENTS  
EMERGENCY RULES

**CERTIFICATE OF NEED FOR EXTENSION OF EMERGENCY**

Pursuant to Section 48(1) of 1969 PA 306, as amended, MCL 24.248(1), I hereby certify that the preservation of the public health, safety, and welfare require that the Marijuana Regulatory Agency Adult-Use Marihuana Establishments Emergency Rules remain in effect. It is therefore necessary to extend the effectiveness of the Marijuana Regulatory Agency Adult-Use Marihuana Establishments Emergency Rules, which were filed with the Secretary of State on July 3, 2019, for an additional 6 months. The Adult-Use Marihuana Establishments Emergency Rules shall remain effective until July 3, 2020.

  
Gretchen Whitmer, Governor

12/18/19  
Date

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

MARIJUANA REGULATORY AGENCY

ADULT-USE MARIHUANA ESTABLISHMENTS

**EMERGENCY RULES**

Filed with the Secretary of State on July 3, 2019

These rules take effect upon filing with the Secretary of State and shall remain in effect for 6 months.

(By authority conferred on the marijuana regulatory agency by sections 7 and 8 of the Michigan regulation and taxation of marihuana act, 2018 IL 1, MCL 333.27957 and 333.27958, and Executive Reorganization Order No. 2019-2, MCL 333.27001)

**FINDING OF EMERGENCY**

These rules are promulgated by the marijuana regulatory agency (agency) to establish emergency rules for the purpose of implementing the Michigan regulation and taxation of marihuana act (act), 2018 IL 1, MCL 333.27951 to 333.27967, and safeguarding the health, safety, and welfare of persons 21 years of age or older engaging in activities regulated by the act, which took effect December 6, 2018. The act provides for a state regulatory structure to license and regulate marihuana establishments and prescribe fines, sanctions, and remedies.

Section 9 of the act, MCL 333.27959, requires the agency to begin accepting applications for marihuana establishments within 12 months after the effective date of the act.

To date, no administrative rules have been promulgated under the authority granted to the agency. Specifically, there are no current administrative rules to provide for the lawful cultivation and sale of marihuana to persons 21 years of age or older or to ensure the safety, security, and integrity of the operation of marihuana establishments. There is a need for clarity in the implementation of this act.

Pursuant to sections 8 and 9 of the act, MCL 333.27958 and 333.27959, and Executive Reorganization No. 2019-2, MCL 333.27001, upon notification by the agency, persons may apply to the agency for state licenses in the categories of class A marihuana grower, class B marihuana grower, class C marihuana grower, marihuana processor, marihuana retailer, marihuana safety compliance facility, marihuana secure transporter, marihuana microbusiness, excess marihuana grower, marihuana event organizer, temporary marihuana event, and designated consumption establishment. The agency is required to review all applications for licensure, issue or deny licenses, and inform each applicant of

July 2, 2019

the agency's decision. If denied licensure, the agency is required, upon request, to provide a public investigative hearing. There are no administrative rules currently in place that will provide for the implementation of these requirements as specified in the act.

The lack of administrative rules to implement the act will have a detrimental effect on the continuous access to a safe source of marihuana for adult-use. The absence of administrative rules will create an obstacle to creating a sustained environment where marihuana establishments may operate under clear requirements and cause disruption to the labor force. The emergency administrative rules are needed to enable the agency to implement the act to provide a safe environment for the state licensees and Michigan communities and to reduce the operations of an unregulated market.

If the complete process specified in the administrative procedures act of 1969 (APA), 1969 PA 306, MCL 24.201 to 24.238, for the promulgation of rules were followed, the process would not be completed in time for the agency to comply with the act's requirements to process applications within the timelines specified in the act or provide administrative hearing procedures. Furthermore, the administrative rules would not be promulgated prior to those timelines for the issuance of state licenses, thus causing uncertainty and financial hardship to individuals or businesses that plan to apply for state licenses.

The agency, therefore, finds that the preservation of the public health, safety, and welfare requires the promulgation of emergency rules as provided in section 48 of the APA, MCL 24.248, without following the notice and participation procedure required by sections 41 and 42 of the APA, MCL 24.241 and 24.242.

## PART 1. GENERAL PROVISIONS

### Rule 1. Definitions.

(a) "Act" means the Michigan regulation and taxation of marihuana act, 2018 Initiated Law 1, MCL 333.27951 to 333.27967.

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

(c) "Applicant" means a person who applies for a state license:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) “Building” means a combination of materials forming a structure affording an establishment or shelter for use or occupancy by individuals or property. Building includes a part or parts of the building and all equipment in the building. A building shall not be construed to mean a building incidental to the use for agricultural purposes of the land on which the building is located.

(f) “Bureau of fire services” or “BFS” means the bureau of fire services in the department of licensing and regulatory affairs.

(g) “Common ownership” means two or more state licenses or two or more equivalent licenses held by one person.

(h) “Complete application” means an application that includes all of the information required in Rules 7, 8, and 10.

(i) “Cutting” means that term as defined in section 102 of the MMFLA, MCL 333.27102.

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

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

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

(i) A marihuana grower license, of any class, issued under the act and a grower license, of any class, issued under the MMFLA.

(ii) A marihuana processor license issued under the act and a processor license issued under the MMFLA.

(iii) A marihuana retailer license issued under the act and a provisioning center license issued under the MMFLA.

(iv) A marihuana secure transporter license issued under the act and a secure transporter license issued under the MMFLA.

(v) A marihuana safety compliance facility license issued under the act and a safety compliance facility license issued under the MMFLA.

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

(n) "Harvest batch" means a designated quantity of harvested marihuana, all of which is identical in strain and has been grown and harvested together and exposed to substantially similar conditions throughout cultivation.

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

(p) "Internal product testing sample" means a sample of marihuana or marihuana products possessed by a marihuana grower, marihuana processor, marihuana retailer, or marihuana microbusiness that is provided directly to an employee for the purpose of ensuring product quality and making determinations about whether to sell the marihuana product.

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

(r) "Marihuana establishment" means a marihuana grower, marihuana safety compliance facility, marihuana processor, marihuana microbusiness, marihuana retailer, marihuana secure transporter, marihuana designated consumption establishment, or any other type of marihuana-related business licensed to operate by the agency under the act and these rules.

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

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

(u) "Medical marihuana facilities licensing act" or "MMFLA" means 2016 PA 281, MCL 333.27101 to 333.27801, which allows for the licensing of medical marihuana facilities.

(v) "Package tag" means an RFID tag supplied through the statewide monitoring system for the purpose of identifying a package containing a marihuana product.

(w) "Plant" means that term as defined in section 102 of the MMFLA, MCL 333.27102.

(x) "Plant tag" means an RFID tag supplied through the statewide monitoring system for the purpose of identifying an individual marihuana plant.

(y) “Proposed marihuana establishment” means a location at which an applicant plans to operate a marihuana establishment under the act and these rules if the applicant is issued a state license.

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

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

(bb) “Seed” means that term as defined in section 102 of the MMFLA, MCL 333.27102.

(cc) “Seedling” means that term as defined in section 102 of the MMFLA, MCL 333.27102.

(dd) “Special license” means a state license described under section 8 of the act and issued pursuant to section 9 of the act, MCL 333.27958 and 333.27959.

(ee) “Stacked license” means more than 1 state license issued to a single licensee to operate as a class C marihuana grower as specified in each state license at a marihuana establishment.

(ff) “Statewide monitoring system” or, unless the context requires a different meaning, “system” means an internet-based, statewide database established, implemented, and maintained by the agency that is available to licensees, law enforcement agencies, and other state departments, agencies, and financial institutions as authorized by the licensee. The system shall be available on a 24-hour basis for tracking marihuana transfer and sales and transportation by licensees, including transferee, date, quantity, and price.

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

(hh) “Temporary marihuana event license” means a state license held by a marihuana event organizer for an event where the onsite sale or consumption of marihuana products, or both, are authorized at the location indicated on the state license during the dates indicated on the state license.

(ii) “Trade sample” means a sample of marihuana or marihuana products provided to licensees by a marihuana grower or a marihuana processor for the purpose of determining whether to purchase the marihuana or marihuana product.

## Rule 2. Terms; meanings.

Terms defined in the act have the same meanings as used in these rules unless otherwise indicated.

## Rule 3. Adoption by reference.

The following codes, standards, or regulations of nationally recognized organizations or associations are adopted by reference in these rules:

(a) National fire protection association (NFPA) standard 1, 2018 edition, entitled “Fire Code” is adopted by reference as part of these rules. Copies of the adopted provisions are available for inspection and distribution from the National Fire Protection Association, 1

Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts, 02169, telephone number 1-800-344-3555, for the price of \$106.00.

(b) Safe Quality Food (SQF) Code, 7.2 edition available at [https://www.sqfi.com/wp-content/uploads/2018/08/SQF-Code\\_Ed-7.2-July.pdf](https://www.sqfi.com/wp-content/uploads/2018/08/SQF-Code_Ed-7.2-July.pdf).

(c) The International Organization for Standardization (ISO), ISO 22000 / ISO/TS 22002-1:2009 - food safety bundle, available for purchase at: <https://webstore.ansi.org/Standards/ISO/ISO22000TS22002FoodSafety>, for the price of \$275.00.

(d) International Organization for Standardization (ISO), ISO/IEC 17025:2017, general requirements for the competence of testing and calibration laboratories available at: <https://webstore.ansi.org/RecordDetail.aspx?sku=ISO%2fIEC+17025%3a2017>, for the price of \$162.00.

(e) The standards adopted in subdivisions (a) to (d) of this rule are available for inspection and distribution at the agency, located at 2407 North Grand River Avenue, Lansing, MI, 48906. Copies of these standards may be obtained from the agency at the cost indicated in subdivisions (a) to (d) of this rule, plus shipping and handling.

#### Rule 4. Third-party inventory control and tracking system.

(1) Except as otherwise provided in subrule (2), a licensee shall adopt and use a third-party inventory control and tracking system that is capable of interfacing with the statewide monitoring system to allow the licensee to enter or access information in the statewide monitoring system as required under these rules. The third-party inventory control and tracking system must have all of the following capabilities necessary for the licensee to comply with the requirements applicable to the licensee's state license type:

(a) Tracking all marijuana plants, products, packages, purchase totals, waste, transfers, conversions, sales, and returns.

(b) Tracking lot and batch information throughout the entire chain of custody.

(c) Tracking all products, conversions, and derivatives throughout the entire chain of custody.

(d) Tracking marijuana plant, batch, and product destruction.

(e) Tracking transportation of product.

(f) Performing complete batch recall tracking that clearly identifies all of the following details relating to the specific batch subject to the recall:

(i) Sold product.

(ii) Product inventory that is finished and available for sale.

(iii) Product that is in the process of transfer.

(iv) Product being processed into another form.

(v) Postharvest raw product, such as product that is in the drying, trimming, or curing process.

(g) Reporting and tracking loss, theft, or diversion of product containing marijuana.

(h) Reporting and tracking all inventory discrepancies.

(i) Reporting and tracking adverse customer responses or dose-related efficacy issues.

(j) Reporting and tracking all sales and refunds.

(k) Electronically receiving and transmitting information as required under these rules.

(l) Receiving testing results electronically from a marihuana safety compliance facility via a secured application program interface into the system and directly linking the testing results to each applicable source batch and sample.

(m) Identifying test results that may have been altered.

(n) Providing the licensee with access to information in the tracking system that is necessary to verify that the licensee is carrying out the marihuana transactions authorized under the licensee's state license in accordance with these rules.

(o) Providing information to cross-check that product sales are made to an individual 21 years of age or older and that the product received the required testing.

(p) Providing the agency and state agencies authorized by the licensee with access to information in the database that they are authorized to access.

(q) Providing law enforcement agencies with access to only the information in the database that is necessary to enforce the act and these rules.

(r) Providing licensees with access only to the information in the system that they are required to receive before a sale, transfer, transport, or other activity authorized under a state license issued under this act.

(s) Securing the confidentiality of information in the database by preventing access by a person who is not authorized to access the statewide monitoring system or is not authorized to access the particular information.

(t) Providing analytics to the agency regarding key performance indicators such as the following:

(i) Total daily sales.

(ii) Total marihuana plants in production.

(iii) Total marihuana plants destroyed.

(iv) Total inventory adjustments.

(2) If a licensee accesses or enters information directly into the statewide monitoring system, the licensee is not required to adopt and use a third-party inventory control and tracking system.

(3) The information in the statewide monitoring system is confidential and is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, pursuant to section 4 of the marihuana tracking act, 2016 PA 282, MCL 333.27904.

(4) A licensee may, in writing, authorize the agency to disclose the licensee's information in the statewide monitoring system to a financial institution pursuant to section 4 of the marihuana tracking act, 2016 PA 282, MCL 333.27904.

## PART 2. STATE LICENSE

Rule 5. Licensure; application; background investigation; consent to inspections, investigations, and audits; disclosure of confidential records; interest in other state license; fee; additional costs.

(1) A person may apply to the agency for state licenses and special licenses as provided in the act and these rules. The agency may begin accepting applications for certain license types prior to December 6, 2019, to ensure there is adequate marihuana product available for customers and a functioning licensing and regulatory framework in place as soon as possible.

(2) The agency shall use information provided on the application as a basis to conduct a thorough background investigation on the applicant. The agency shall notify the applicant of a deficiency and provide instructions for submitting a complete application. The applicant shall timely respond to the notice of the deficiency in accordance with Rule 8.

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

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

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

#### Rule 6. Application procedure; requirements.

(1) A person may apply for a state license on the form created by the agency accompanied by the nonrefundable application fee as prescribed in these rules. The application shall be made under oath on a form provided by the agency and shall contain information as prescribed by the agency, including, but not limited to, attestations, disclosures, and information as required in Rule 7 and the act. Each question on the application must be answered by the applicant in its entirety and all information requested and required by the act and these rules must be submitted in the application. Failure to comply with these rules and the application requirements in the act is grounds for denial of the application.

(2) A person may submit a partial application under Rule 7 on the condition that it is to prequalify to complete the remaining application requirements. This application will have a pending status until all application requirements in Rule 7 are completed or the agency denies the partial or complete application. The agency shall not issue a state license at this stage of the application process. The finding of prequalification status for a pending application is valid for a period of 1 year after the agency issues a notice of prequalification status approval for a pending application unless otherwise determined by the agency. After 1 year has expired, the applicant may be required to submit a new application and pay a new nonrefundable application fee.

(3) The agency may request additional disclosures and documentation to be furnished to the agency. The applicant shall submit the information requested by the agency within 5 days pursuant to rule 8 or the application may be denied.

#### Rule 7. Application requirements; financial and criminal background.

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

(2) Each applicant shall disclose tax information, including, but not limited to, W-2 and 1099 forms for the most recent tax year, and any other information required by the agency.

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

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

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

(6) Each applicant shall provide an attestation in writing that the person consents to inspections, examinations, searches, seizures, investigations of compliance, regular inspections, and auditing of books and records that are permitted under the act and these rules.

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

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

(9) Each applicant shall provide an attestation acknowledging that the applicant must have a physical structure for the marijuana establishment and pass the precursors inspection within 60 days of a complete application being submitted to the agency. Failure to pass the precursors inspection within 60 days of the complete application being submitted to the agency may result in the application being denied in accordance with Rule 14.

(10) If the applicant holds or held a state license under the act or the rules, or a state operating license under the MMFLA and associated rules, or both, the applicant shall provide written consent allowing the agency to verify with the department of treasury that the applicant is not delinquent in the payment of sales, excise, or any other taxes.

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

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

(13) The applicant shall provide a social equity plan detailing a plan to promote and encourage participation in the marijuana industry by people from communities that have been disproportionately impacted by marijuana prohibition and enforcement and to positively impact those communities.

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

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

**Rule 8. Application requirements; complete application.**

(1) A complete application for a state license must include all the information specified in Rule 7 and all of the following:

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

- (i) An estimate of or actual number of employees.
- (ii) The projected or actual gross receipts.
- (iii) A business plan.
- (iv) The proposed location of the marihuana establishment.
- (v) A security plan, as required under the act and these rules.

(b) A copy of the proposed marihuana establishment plan, as required under Rule 11.

(c) An applicant shall pass the precensure inspection as determined by the agency and as required in Rule 12.

(d) Before a state license is issued or renewed, the licensee or renewal applicant shall file a proof of financial responsibility for liability for bodily injury on the form prescribed, for an amount not less than \$100,000.00. If the proof required in this subrule is a bond, the bond must be in a format acceptable to the agency.

(e) Confirmation of compliance with any municipal ordinances the municipality may have adopted under section 6 of the act, MCL 333.27956. For purposes of these rules, confirmation of compliance must be on an attestation form prepared by the agency that contains all of the following information:

(i) Verification that the municipality has not adopted an ordinance prohibiting marihuana establishments.

(ii) Description of any regulations within the municipality that apply to the proposed marihuana establishment.

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

(iv) The date and signature of the applicant.

(v) The marihuana establishment name and address.

(vi) Attestation that any changes that occur with the municipal ordinance or any violations of a municipal or zoning ordinance will be reported to the agency.

(f) The disclosure of persons that have a direct or indirect ownership interest in the marihuana establishment.

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

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

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

the deficiency notice. The application is considered incomplete until the agency receives the missing information or proof that the deficiency has been corrected.

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

**Rule 9. State license; issuance; qualifications; ineligibility.**

(1) The agency shall issue a state license to a qualified applicant whose application has been approved for issuance and who pays the required licensure or excess background investigation fees within 10 days of the state license being approved for issuance. Failure to pay the fees required under Rule 10 may result in a denial of state license.

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

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

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

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

(d) The applicant holds an elective office of a governmental unit of this state, another state, or the federal government; is a member of or employed by a regulatory body of a governmental unit in this state, another state, or the federal government; or is employed by a governmental unit of this state. This subdivision does not apply to an elected officer of or employee of a federally recognized Indian tribe or to an elected precinct delegate.

(e) The applicant, if an individual, is not a resident of this state on the date of filing the application for a class A marihuana grower or for a marihuana microbusiness license. The requirements in this subdivision do not apply after December 6, 2021.

(f) The applicant does not hold a state operating license pursuant to the MMFLA and is applying for a marihuana retailer, marihuana processor, class B marihuana grower, class C marihuana grower, or a marihuana secure transporter license under the act and these rules. The requirements in this subdivision do not apply after December 6, 2021.

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

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

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

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

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

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

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

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

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

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

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

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

#### Rule 10. Application; fees.

(1) At the beginning of each state fiscal year, the agency may increase the fees collected under this rule by ten percent (10%) in order to pay for implementation, administration, and enforcement of the act and these rules. An applicant for a state license shall submit an application that is accompanied by the nonrefundable application fee of \$6,000.00 upon initial application, as required under these rules. Additional fees are listed in the table below.

<b>State License Type</b>	<b>Initial Licensure Fee</b>	<b>Renewal Fee</b>
Class A Marihuana Grower	\$4,000	Bottom 33% - \$3,000 Middle 33% - \$4,000 Top 33% - \$5,000
Class B Marihuana Grower	\$8,000	Bottom 33% - \$6,000 Middle 33% - \$8,000 Top 33% - \$10,000
Class C Marihuana Grower	\$40,000	Bottom 33% - \$30,000 Middle 33% - \$40,000 Top 33% - \$50,000
Excess Marihuana Grower	\$40,000	Bottom 33% - \$30,000 Middle 33% - \$40,000 Top 33% - \$50,000

Marihuana Microbusiness	\$8,000	Bottom 33% - \$6,000 Middle 33% - \$8,000 Top 33% - \$10,000
Marihuana Processor	\$40,000	Bottom 33% - \$30,000 Middle 33% - \$40,000 Top 33% - \$50,000
Marihuana Retailer	\$25,000	Bottom 33% - \$20,000 Middle 33% - \$25,000 Top 33% - \$30,000
Marihuana Secure Transporter	\$25,000	Bottom 33% - \$20,000 Middle 33% - \$25,000 Top 33% - \$30,000
Marihuana Safety Compliance Facility	\$25,000	Bottom 33% - \$20,000 Middle 33% - \$25,000 Top 33% - \$30,000
Marihuana Event Organizer	\$1,000	\$1,000
Temporary Marihuana Event	See Rule 63	N/A
Designated Consumption Establishment	\$1,000	\$1,000

(2) Additional fees will be considered for temporary marihuana events in accordance with Rule 63.

(3) The renewal fees for marihuana grower, excess marihuana grower, and marihuana processor licenses shall be determined by the gross weight transferred by the licensee. The agency shall determine whether the gross weight transferred by the licensee is in the top third, middle third, or bottom third for gross weight transferred in that fiscal year compared against all other licensees for the license held. The licensee shall then pay the corresponding fee outlined in subrule (1) of this rule.

(4) The renewal fees for marihuana retailers and marihuana microbusiness licenses shall be determined by the gross retail sales by the licensee. The agency shall determine whether the gross retail sales made by the licensee is in the top third, middle third, or bottom third for gross retail sales in that fiscal year compared against all other licensees for the license held. The licensee shall then pay the corresponding fee outlined in subrule (1) of this rule.

(5) The renewal fee for a marihuana secure transporter license shall be determined by the net weight transported by the licensee. The agency shall determine whether the net weight transported by the licensee is in the top third, middle third, or bottom third for net weight transported in that fiscal year compared against all other marihuana secure transporter licensees. The licensee shall then pay the corresponding fee outlined in subrule (1) of this rule.

(6) The renewal fee for marihuana safety compliance facilities shall be determined by the number of tests completed by the licensee. The agency shall determine whether the number of tests completed by the licensee is in the top third, middle third, or bottom third for number of tests completed in that fiscal year compared against all other marihuana safety compliance facilities. The licensee shall then pay the corresponding fee outlined in subrule (1) of this rule.

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

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

(9) The agency shall not issue a state license until a complete application is submitted, the fees required under these rules are paid, and the agency determines that the applicant is qualified to receive a state license under the act and these rules. An applicant must pay initial licensure and renewal fees within 10 days of the state license or renewal being approved for issuance. Failure to pay the required fee may be grounds for the denial of a state license in accordance with Rule 14.

#### Rule 11. Marihuana establishment plan.

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

(2) The marihuana establishment plan must include, but is not limited to, all of the following:

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

(i) A statement in the marihuana establishment plan that a combination of state licenses will operate as separate marihuana establishments at the same location, as provided under Rule 31.

(ii) A statement in the marihuana establishment plan that the applicant has or intends to apply to stack a marihuana grower license at the proposed marihuana establishment as provided under Rule 21.

(iii) A statement in the marihuana establishment plan that equivalent licenses will operate at the same location, as provided under Rule 32.

(b) A diagram of the marihuana establishment including, but not limited to, all of the following:

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

(ii) Specifications of the marihuana establishment.

(iii) Physical address.

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

(v) Means of public entry or exit.

(vi) Limited access areas and restricted access areas within the marihuana establishment.

(vii) An indication of the distinct areas or structures for separate marihuana establishments at the same location as provided in Rule 31.

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

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

(ii) Maximum storage capabilities.

(iii) Number of rooms.

(iv) Dividing structures.

(v) Fire walls.

(vi) Entrances and exits.

- (vii) Locations of hazardous material storage.
  - (viii) Quantities of hazardous materials, such as chemical, flammable/combustible liquids and gases, and the expected daily consumption of the hazardous materials.
  - (d) Means of egress, including, but not limited to, delivery and transfer points.
  - (e) Construction details for structures and fire-rated construction for required walls.
  - (f) Building structure information, including but not limited to, new, pre-existing, freestanding, or fixed.
  - (g) Building type information, including, but not limited to, commercial, warehouse, industrial, retail, converted property, house, mercantile building, pole barn, greenhouse, laboratory, or center.
  - (h) Zoning classification and zoning information.
  - (i) If the proposed marihuana establishment is in a location that contains multiple tenants and any applicable occupancy restrictions.
  - (j) A proposed security plan that demonstrates the proposed marihuana establishment meets the security requirements specified in Rule 35.
  - (k) Any other information required by the agency if not inconsistent with the act and these rules.
- (3) Any changes or modifications to the marihuana establishment plan under this rule must be reported to the agency and may require preapproval by the agency.
- (4) The agency may provide a copy of the marihuana establishment plan to the BFS, local fire department, Michigan state police, local law enforcement, and building officials for use in review and planning.
- (5) The agency may reinspect the marihuana establishment to verify the plan at any time during the establishment's hours of operation and may require that the plan be resubmitted upon renewal.

#### Rule 12. Prelicensure investigation; proposed marihuana establishment inspection.

- (1) An applicant for a state license shall submit to a precicensure physical inspection of a proposed marihuana establishment, as determined by the agency.
- (2) The agency shall establish an inspection process to confirm that the applicants and proposed marihuana establishments meet the requirements of the act and these rules.
- (3) The agency shall investigate an applicant in accordance with the act and these rules.
- (4) The agency shall conduct inspections and examinations of an applicant and a proposed marihuana establishment in accordance with the act and these rules.
- (5) An applicant shall submit proof to the agency of both of the following:
  - (a) A certificate of use and occupancy as required pursuant to section 13 of the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1513, and these rules. If this certificate is not available, the agency may accept alternative documentation from the building authority.
  - (b) If applicable, a fire safety inspection as specified in Rule 34.

#### Rule 13. Proof of financial responsibility; insurance.

- (1) Before a state license is issued or renewed, the licensee or renewal applicant shall file a proof of financial responsibility for liability for bodily injury on the form prescribed in Rule 8 of these rules, for an amount not less than \$100,000.00. If the proof required in this subrule is a bond, the bond must be in a format acceptable to the agency.

(2) Proof of financial responsibility for liability for bodily injury is not required for a marihuana event organizer license. A marihuana event organizer licensee shall file a proof of financial responsibility for liability for bodily injury when applying for a temporary marihuana event license.

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

#### Rule 14. Denial of state license; additional reasons.

(1) If an applicant fails to comply with the act or these rules, a state license may be denied by the agency as provided under the act and these rules.

(2) In addition to the reasons for denial in the act, a state license may be denied by the agency for any of the following reasons:

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

(b) The applicant has failed to pay required fees pursuant to Rules 9 and 10.

(c) The applicant has failed to comply with these rules and the application requirements pursuant to Rules 6, 7, and 8.

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

(e) The applicant failed to correct a deficiency within 5 days of notification by the agency in accordance with Rule 8.

(f) The applicant failed to satisfy the confirmation of compliance by a municipality requirement in accordance with these rules.

(g) The applicant's marihuana establishment plan does not fully comply with the act or these rules.

(h) The applicant's proposed marihuana establishment or marihuana establishment is substantially different from the marihuana establishment plan pursuant to Rule 11 and these rules.

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

(j) The applicant fails to provide notifications or reports to the agency pursuant to Rule 16.

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

(l) The applicant failed to receive a passing prelicensure inspection within 60 days of a complete application being submitted to the agency.

(m) The applicant is operating or was operating a proposed marihuana establishment or marihuana establishment without a state license.

(n) The applicant or anyone who will have ownership in the marihuana establishment has a pattern of convictions involving dishonesty, theft, or fraud that indicate the proposed marihuana establishment is unlikely to be operated with honesty and integrity.

(o) The applicant or anyone who will have ownership in the marihuana establishment has a conviction involving distribution of a controlled substance to a minor pursuant to section 8 of the act, MCL 333.27958.

(p) The applicant holds a state operating license under the MMFLA and has failed to file or is delinquent in the payment of the sales tax required under the general sales tax act, 1933 PA 167, MCL 205.51 to 205.78, or the excise tax required under section 601 of the MMFLA, MCL 333.27601.

(q) The applicant holds a state license and has failed to file or is delinquent in the payment of the sales tax required under the general sales tax act, 1933 PA 167, MCL 205.51 to 205.78, or the excise tax required under section 13 of the act, MCL 333.27963.

#### Rule 15. Renewal of state license.

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

(a) To the extent that information has changed or not been previously reported, updated personal, business, and financial information, as the agency may require, related to the eligibility of the licensee to continue to hold the state license for which renewal is requested under the act and these rules. To the extent that the information has changed or not been previously reported, updated information on the marijuana establishment.

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

(c) Attestation by the municipality on a form created by the agency regarding a licensee who submits an application for state license renewal which shall include, but not be limited to, both of the following:

(i) A description of any violation, if applicable, of an ordinance or a zoning regulation adopted pursuant to section 6 of the act, MCL 333.27956, committed by the licensee, but only if the violation relates to activities licensed under the act or these rules, or the MMFLA and its associated rules, or both.

(ii) Whether there has been a change to an ordinance or a zoning regulation adopted pursuant to section 6 of the act, MCL 333.27956, since the state license was issued to the licensee and a description of the change.

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

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

(2) Failure to comply with any of the provisions in the act and these rules may result in the nonrenewal of a state license. A state license shall not be renewed unless the agency has determined that the individual qualifications of each person required by the act and these rules is eligible as part of the state license renewal in accordance with the relevant licensing standards set forth in the act and these rules.

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

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

(5) The agency may refuse to renew a state license and issue a notice of nonrenewal if the licensee fails to apply for renewal in accordance with this rule. In addition, the agency may refuse to renew a state license and issue a notice of nonrenewal if the agency determines, after reviewing the licensee's annual renewal form, that the state license should not be renewed because the licensee's annual renewal form does not provide the information and documentation required by the agency to determine that the licensee is eligible to continue to be licensed and ready and able to continue conducting its marijuana establishment operation in compliance with the act and these rules.

(6) A state licensee who is served with a notice of nonrenewal may request a hearing pursuant to Rule 66 through Rule 72.

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

(8) A person who has not applied for state license renewal for any and all licenses that are due for renewal shall cease and desist operation and is subject to any sanctions or fines, or both, in accordance with the act or these rules.

#### Rule 16. Notification and reporting.

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

(2) Applicants and licensees shall report to the agency any changes to the marijuana establishment operations that are required in Rule 30 through Rule 40 and as required in these rules, as applicable.

(3) Applicants and licensees shall report to the agency any proposed material changes to the marijuana establishment before making a material change that may require prior authorization by the agency. Material changes, include, but are not limited to, the following:

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

(b) Change of location. Upon notification of a change in location, the agency may determine that a new state license and new inspection are required for the change of location pursuant to Rule 22.

(c) A description of a violation of an ordinance or a zoning regulation adopted pursuant to section 6 of the act, MCL 333.27956, committed by the licensee, but only if the violation relates to activities licensed under the act and these rules, or the MMFLA and its associated rules, or both.

- (d) The addition or removal of a person named in the application or disclosed.
  - (e) Change in entity name.
  - (f) Any attempted transfer, sale, or other conveyance of an interest in a state license.
  - (g) Any change or modification to the marihuana establishment before or after licensure that was not preinspected, inspected, or part of the marihuana establishment plan or final inspection including, but not limited to, operational or method changes requiring inspection under these rules, additions or reductions in equipment or processes at a marihuana establishment, increase or decrease in the size or capacity of the marihuana establishment, alterations of ingress or egress, and changes that impact security, fire and building safety.
- (4) An applicant or licensee shall notify the agency within 1 business day of becoming aware of or within 1 business day of when the applicant or licensee should have been aware of all of the following:
- (a) Adverse reactions to a marihuana product sold or transferred by any licensee.
  - (b) Criminal convictions, charges, or civil judgements against an applicant or licensee in this state or any other state, federal, or foreign jurisdiction.
  - (c) Regulatory disciplinary action taken or determined against an applicant or licensee by this state or any other state, federal, or foreign jurisdiction, including any pending action.
- (5) The applicant or licensee shall notify the agency within 10 days of the initiation or conclusion of any new judgments, lawsuits, legal proceedings, charges, or government investigations, whether initiated, pending, or concluded, that involves the applicant or the licensee.
- (6) Failure to provide notifications or reports to the agency pursuant to this rule may result in sanctions or fines, or both.

**Rule 17. Notifications of diversion, theft, loss, or criminal activity pertaining to marihuana product.**

- (1) Applicants and licensees shall notify the agency and local law enforcement authorities within 24 hours of becoming aware of or should have been aware of the theft or loss of any marihuana product or criminal activity at the marihuana establishment.
- (2) Failure to notify as required under subrule (1) of this rule may result in sanctions or fines, or both.

**Rule 18. Inspection; investigation.**

- (1) The agency shall do all of the following with respect to inspections and investigations of applicants, licensees, proposed marihuana establishments, and marihuana establishment operations:
  - (a) Oversee and conduct inspections of proposed marihuana establishments and marihuana establishments to ensure compliance with the act and these rules.
  - (b) Inspect and examine marihuana establishments and proposed marihuana establishments.
  - (c) Inspect, examine, and audit records of the licensee.
- (2) The agency may investigate individuals employed by proposed marihuana establishments and marihuana establishments.

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

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

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

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

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

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

(9) For purposes of this rule, the term "record" means books, ledgers, documents, writings, photocopies, correspondence, electronic records, videotapes, surveillance footage, electronic storage media, electronically stored records, money receptacles, equipment in which records are stored, including data or information in the statewide monitoring system, or any other document that is used for recording information.

#### Rule 19. Persons subject to penalty; violations.

(1) A state license may be subject to penalties if any person required to be disclosed as an applicant violates the act or these rules.

(2) If the agency during the physical site inspection determines violations of the act or these rules exist, the agency shall notify the person, applicant, or licensee of the violation during the physical site inspection or thereafter and the person, applicant, or licensee may be responsible for sanctions or fines, or both.

(3) The agency may issue a notice of a violation or fine, or both, for any violations of the act and applicable rules, including those observed by the agency while in the performance of its duties.

(4) If the agency determines a violation of the act or these rules exists, these violations must be cited in a format established by the agency. After a notice of violation or fine, or both, is issued to a person, applicant, or licensee, the agency may hold a compliance conference or a hearing if applicable as prescribed in the act and these rules.

(5) The agency may forward information regarding violations of the act or these rules or any other state or federal law to the department of state police, department of attorney general, and the prosecutor for the jurisdiction in which the alleged violation of the act or rules has occurred.

(6) The agency may take action for failure to pay any fine within the time written on the violation notice pursuant to the act or these rules.

(7) The agency may take action if notified of a violation of a municipal ordinance pursuant to section 6 of the act, MCL 333.27956.

(8) The agency may take action against a licensee for knowingly making misrepresentations to the agency or its contractors during an investigation into the licensee.

(9) The attempted transfer, sale, or other conveyance of an interest in a state license without prior approval are grounds for suspension or revocation of the state license or for other sanctions as provided in these rules.

#### Rule 20. Sanctions; fines.

(1) A person, applicant, or licensee found in violation of these rules or the act may be subject to sanctions, including, but not limited to, any of the following:

- (a) State license denial.
- (b) Limitations on a state license.
- (c) Fines.
- (d) Revocation, suspension, nonrenewal, or an administrative hold on a state license.
- (e) Orders to cease operations.

(2) A violation of these rules or the act may result in 1 or more of the following:

- (a) Denial, revocation, or limitation.
- (b) Removal of a licensee or an employee of a licensee.
- (c) Civil fines up to \$10,000.00 or an amount equal to the daily gross receipts, whichever is greater, against a licensee for each violation of the act, a final order, or these rules.

(d) Civil fines may be assessed for each day the licensee is not in compliance with each violation of the act or these rules. Assessment of a civil fine is not a bar to the investigation, arrest, charging, or prosecution of an individual for any other violation of the act or these rules.

(3) A state license may be suspended without notice or hearing upon a determination that the safety or health of patrons or employees is jeopardized by continuing a marijuana establishment's operation as provided in the act or these rules.

(4) A person operating without a state license shall cease operation and may be subject to, including but not limited to, sanctions or fines, or both, in accordance with the act or these rules and may be referred to the state police and department of attorney general.

(5) The agency may impose any other remedies, sanctions, or penalties not inconsistent with the act or these rules.

#### Rule 21. Stacked license.

(1) A marijuana grower may apply to stack class C marijuana grower licenses at a marijuana establishment specified in the state license application. The marijuana grower shall be subject to payment of a separate initial licensure fee for each state license issued and stacked and may be subject to any additional fees under Rule 10.

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

#### Rule 22. Changes to licensed marijuana establishment.

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

(2) Any change of a location of a marihuana establishment after licensure requires a new state license application under Rule 8 and Rule 10 and may include, but is not limited to, application fees, or initial licensure fees, or both. A licensee shall produce written confirmation of compliance with any municipal ordinances the municipality may have adopted under section 6 of the act, MCL 333.27956. For purposes of these rules, confirmation of compliance must be on an attestation form prepared by the agency that contains all of the information required in Rule 8.

Rule 23. Communities; disproportionately impacted by marihuana prohibition.

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

(2) The agency shall publish information about the plan which shall include, but not be limited to, the following:

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

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

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

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

(e) Specific goals and objectives for the plan.

(3) The agency shall collect data to measure its progress towards achieving the specific goals and objectives outlined in subdivision (e).

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

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

(b) Waiving or reducing fees for qualified applicants from the communities.

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

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

### PART 3. LICENSEES

Rule 24. Marihuana grower license.

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

(a) Class A – 100 marihuana plants.

(b) Class B – 500 marihuana plants.

(c) Class C – 2,000 marihuana plants.

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

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

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

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

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

(5) Except as otherwise provided in the act, subrule (2) and subrule (3) of this rule, and Rule 42, a marihuana grower license authorizes the marihuana grower to transfer marihuana only by means of a marihuana secure transporter.

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

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

(8) A marihuana grower may accept the transfer of marihuana seeds, tissue cultures, and clones that do not meet the definition of marihuana plant in these rules at any time from another grower licensed under the act, these rules, the MMFLA, and its associated rules, or both.

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

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

#### Rule 25. Marihuana processor license.

(1) A marihuana processor license authorizes purchase of marihuana only from a marihuana grower or a marihuana processor and sale of marihuana-infused products or marihuana only to a marihuana retailer or another marihuana processor.

(2) Except as otherwise provided in Rule 42, Rule 53, this rule, and the act, a marihuana processor license authorizes a marihuana processor to transfer marihuana only by means of a marihuana secure transporter. A marihuana processor license authorizes a marihuana processor to transfer marihuana without using a marihuana secure transporter to a marihuana grower, marihuana processor, or marihuana retailer if both of the following are met:

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

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

(3) A licensee who holds 2 or more marihuana processor licenses with common ownership at different establishments may transfer marihuana product inventory between the licensed marihuana processor establishments. The transferred marihuana product must be entered and tracked in the statewide monitoring system as required in these rules and any requirements published by the agency.

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

#### Rule 26. Marihuana retailer license.

(1) A marihuana retailer license authorizes the purchase or transfer of marihuana only from a marihuana grower or marihuana processor and sale or transfer to only an individual 21 years of age or older. Except as otherwise provided in Rule 42, Rule 53, this rule, and the act, all transfers of marihuana to a marihuana retailer from a separate marihuana establishment must be by means of a marihuana secure transporter. A transfer of marihuana to a marihuana retailer from a marihuana establishment that occupies the same location as the marihuana retailer does not require a marihuana secure transporter if the marihuana is transferred to the marihuana retailer using only private real property without accessing public roadways.

(2) A marihuana retailer license authorizes the marihuana retailer to transfer marihuana to or from a marihuana safety compliance facility for testing by means of a marihuana secure transporter or as provided in Rule 42.

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

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

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

(c) Before selling or transferring marihuana to an individual 21 years of age or older, verify the individual appeared to be 21 years of age or older by means of government-issued photographic identification containing a date of birth and that the sale or transfer will not exceed the single transaction limit in these rules.

(4) A licensee who holds 2 or more marihuana retailer licenses with common ownership at different establishments may transfer marihuana product inventory between the licensed marihuana retailer establishments. The transferred marihuana product must be entered and tracked in the statewide monitoring system as required in these rules and any requirements published by the agency.

#### Rule 27. Marihuana microbusiness license.

(1) A marihuana microbusiness license authorizes the following:

(a) The cultivation of not more than 150 plants.

(b) The processing and packaging of marihuana.

(c) The retail sale or transfer of marihuana to only an individual 21 years of age or older, but not to other marihuana establishments.

(d) The transfer of marihuana to a marihuana safety compliance facility for testing.

(2) Except as otherwise provided in Rule 42, this rule, and the act, a marihuana microbusiness license authorizes a marihuana microbusiness to transfer marihuana from the marihuana grower area to the marihuana processor and marihuana retailer areas of the marihuana microbusiness and from the marihuana processor area to marihuana grower and marihuana retailer areas of the marihuana microbusiness without using a marihuana secure transporter if all areas of the marihuana microbusiness enter each transfer between different areas of the marihuana microbusiness into the statewide monitoring system.

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

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

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

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

(7) A marihuana microbusiness license is subject to all applicable provisions in the act and these rules related to a marihuana grower, marihuana retailer, and marihuana processor license.

#### Rule 28. Marihuana secure transporter license.

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

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

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

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

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

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

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

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

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

**Rule 29. Marihuana safety compliance facility license.**

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

(a) Take marihuana from, test marihuana for, and return marihuana to only a licensed marihuana grower, marihuana processor, marihuana retailer, or marihuana microbusiness.

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

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

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

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

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

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

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

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

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

(i) Ensure tests are conducted in accordance with ISO 17025.

(ii) Ensure test results are accurate and valid.

(iii) Oversee day-to-day operations.

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

(v) Verify conformity with ISO 17025.

(vi) Any other duties required and published by the agency.

## PART 4. OPERATIONS

**Rule 30. State licenses; licensees; operations; general.**

(1) A state license and a stacked license as described in Rule 21 are limited to the scope of the state license issued for that type of marihuana establishment that is located within the municipal boundaries connected with the state license.

(2) A licensee shall comply with all of the following:

(a) Except as provided in Rule 31 and Rule 32, marihuana establishments shall be partitioned from any other marihuana establishment, activity, business, or dwelling. Marihuana establishments shall not allow onsite or as part of the marihuana establishment any of the following:

(i) Sale, consumption, or serving of food or alcohol except for as provided in Rule 56 unless the establishment has the appropriate authorizations from other federal, state, or local agencies as applicable.

(ii) Consumption, use, or inhalation of a marihuana product unless the licensee has been granted a designated consumption establishment or temporary marihuana event license under Rule 59 and Rule 62.

(b) A marihuana establishment shall have distinct and identifiable areas with designated structures that are contiguous and specific to the state license.

(c) A marihuana establishment shall have separate entrances and exits, inventory, record keeping, and point of sale operations, if applicable.

(d) Access to the marihuana establishment's restricted and limited access areas is restricted to the licensee; employees of the licensee, escorted visitors, and the agency. A marihuana retailer or a marihuana microbusiness may grant access as provided in Rule 33(5) to customers to a dedicated point of sale area.

(e) Licensee records must be maintained and made available to the agency upon request.

(f) The marihuana establishment must be at a fixed location. Mobile marihuana establishments and drive through operations are prohibited. Any sales or transfers of marihuana product by internet or mail order, consignment, or at wholesale are prohibited.

(g) A state license issued under the act must be framed under a transparent material and prominently displayed in the marihuana establishment.

(3) A marihuana establishment shall comply with the following:

(a) The natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106. The agency may publish guidance in cooperation with the department of environment, great lakes, and energy.

(b) Any other operational measures requested by the agency that are not inconsistent with the act and these rules.

Rule 31. Operation at same location.

(1) A licensee that has any combination of state licenses may operate separate marihuana establishments at the same location. For purposes of this rule, a stacked license is considered a single marihuana establishment.

(2) To operate at the same location subject to subrule (1) of this rule, all of the following requirements must be met:

(a) The agency has authorized the proposed operation at the same location.

(b) The operation at the same location is not in violation of any local ordinances or regulations.

(c) The operation at the same location does not circumvent a municipal ordinance or zoning regulation that limits the marihuana establishments under section 6 of the act, MCL 333.27956.

(d) The licensee of each marihuana establishment operating at the same location under this rule shall do all the following:

(i) Apply for and be granted separate state licenses and pay the required fees for each state license.

(ii) Have distinct and identifiable areas with designated structures that are contiguous and specific to the state license.

(iii) Have separate entrances and exits, inventory, record keeping, and point of sale operations.

(iv) Post the state license on the wall in its distinct area and as provided in these rules.

(v) Obtain any additional inspections and permits required for local or state building inspection, fire services, and public health standards.

(vi) Comply with the provisions in the act and these rules.

(3) Operation of a state license at the same location that includes a licensed marihuana retailer shall have the entrance and exit to the licensed marihuana retailer and entire inventory physically separated from any of the other licensed marihuana establishment or establishments so that individuals can clearly identify the retail entrance and exit.

#### Rule 32. Equivalent licenses; operation at same location.

(1) A person that holds equivalent licenses with common ownership under the act and MMFLA may operate those equivalent licenses at the same location.

(2) To operate equivalent licenses at the same location, all of the following requirements must be met:

(a) The agency has authorized the proposed operation at the same location.

(b) The operation at the same location is not in violation of any local ordinances or regulations.

(c) The operation at the same location does not circumvent a municipal ordinance or zoning regulation that limits the marihuana establishments under section 6 of the act, MCL 333.27956.

(d) The person operating the equivalent licenses at the same location under this rule shall do all the following:

(i) Apply for and be granted a separate state license and a state operating license and pay the required fees for each license.

(ii) Post each state license and state operating license on the wall in its distinct area and as provided in these rules.

(iii) Obtain any additional inspections and permits required for local or state building inspection, fire services, and public health standards, if applicable.

(iv) Comply with the provisions in the act and these rules.

(3) A licensee with common ownership of a marihuana retailer and a provisioning center and operating equivalent licenses at the same location shall physically separate the entire inventories and the items on display for sale so that individuals may clearly identify medical marihuana products from retail marihuana products.

(4) A licensee with common ownership of a marihuana retailer and a provisioning center and operating the equivalent licenses at the same location shall not bundle a product subject to the excise tax in section 13 of the act, MCL 333.27963, in a single transaction with a product or service that is not subject to the tax imposed by that section.

(5) A person who holds equivalent licenses with common ownership under the act and MMFLA and operates at the same location is not required to have any of the following:

(a) Separate business suites, partitions, or addresses.

- (b) Separate entrances and exits.
- (c) Distinct and identifiable areas with designated structures that are contiguous and specific to the state license and the state operating license.
- (d) Separate point of sale area and operations.

Rule 33. Marihuana establishments; general requirements.

(1) A marihuana grower shall operate a marihuana establishment under either of the following conditions:

(a) The marihuana grower operations are within a building that meets the security requirements and passes the inspections in these rules and has a building permit pursuant to Rule 34 and these rules.

(b) The marihuana grower operations are within a building, except that cultivation may occur in an outdoor area, if all of the following conditions are met:

(i) The outdoor area containing the cultivation of marihuana plants is contiguous with the building, fully enclosed by fences or barriers that block outside visibility of the marihuana plants from the public view, with no marihuana plants growing above the fence or barrier that is visible to the public eye and the fences are secured and comply with the applicable security measures in these rules, including, but not limited to, locked entries only accessible to authorized persons or emergency personnel.

(ii) After the marihuana is harvested, all drying, trimming, curing, or packaging of marihuana occurs inside the building meeting all the requirements under these rules.

(iii) The building meets the security requirements and passes the inspections in these rules and has a building permit pursuant to Rule 34 and these rules.

(2) The agency shall publish a list of approved chemical residue active ingredients for marihuana growers to use in the cultivation and production of marihuana plants and marihuana products to be sold or transferred in accordance with the act or these rules.

(3) The agency shall publish a list of banned chemical residue active ingredients which are prohibited from use in the cultivation and production of marihuana plants and marihuana products to be sold or transferred in accordance with the act or these rules.

(4) A marihuana secure transporter shall have a primary place of business as its marihuana establishment that is operating in a municipality that has not adopted an ordinance prohibiting marihuana establishments from operating within its boundaries under section 6 of the act, MCL 333.27956, and these rules and its marihuana establishment must comply with the requirements prescribed by the act, these rules, and any municipal ordinances that meet the requirements of section 6 of the act, MCL 333.27956. A marihuana secure transporter shall hold a separate state license for every marihuana secure transporter location. A marihuana secure transporter may travel through any municipality to transport a marihuana product. A marihuana secure transporter shall comply with all of the following:

(a) The marihuana secure transporter may take physical custody of the marihuana or money, but legal custody belongs to the transferor or transferee.

(b) A marihuana secure transporter shall not sell or purchase marihuana products.

(c) A marihuana secure transporter shall transport any marihuana product in a locked, secured, and sealed container that is not accessible while in transit. The container must be secured by a locked closed lid or door. A marihuana secure transporter of marihuana product from separate marihuana establishments shall not comingle the marihuana product.

All marihuana products must be labeled in accordance with these rules and kept in separate compartments or containers within the main locked, secured, and sealed container. If the marihuana secure transporter transports money associated with the purchase or sale of marihuana product between establishments, the marihuana secure transporter shall lock the money in a sealed container kept separate from the marihuana product and only accessible to the licensee and its employees.

(d) A marihuana secure transporter shall log and track all handling of money associated with the purchase or sale of marihuana between marihuana establishments. These records must be maintained and made available to the agency upon request.

(e) A marihuana secure transporter shall have a route plan and manifest available for inspection by the agency to determine compliance with the act and these rules. A copy of the route plan and manifest must be carried with the marihuana secure transporter during transport between marihuana establishments. A marihuana secure transporter is subject to administrative inspection by a law enforcement officer at any point during the transportation of marihuana product pursuant to these rules. A marihuana secure transporter shall carry a copy of a route plan and manifest in the transporting vehicle and shall present them to a law enforcement officer upon request.

(f) A marihuana secure transporter shall follow the manifest. In cases of emergencies, the marihuana secure transporter shall notify the transferor and transferee, update the statewide monitoring system, and revise the manifest to reflect the unexpected change to the original manifest.

(g) A marihuana secure transporter shall store vehicles at its primary place of business. If a marihuana secure transporter stores a vehicle that does not contain marihuana or marihuana product at a location that is not its primary place of business, it will indicate that in its establishment plan pursuant to Rules 8 and 16.

(h) A marihuana secure transporter transferring marihuana product to a marihuana establishment shall remain onsite until the marihuana product is weighed and accepted or rejected before leaving the marihuana establishment.

(i) The timeframe for the marihuana secure transporter to maintain custody of the marihuana product must not be more than 48 hours or by permission of the agency on a case-by case basis.

(j) A marihuana secure transporter shall identify and record all vehicles with the agency and have the required vehicle registration with the secretary of state as required under state law. A marihuana secure transporter's vehicles are subject to inspection at any time by the agency to determine compliance with the act or these rules.

(5) A marihuana retailer shall have a separate room that is dedicated as the point of sale area for the transfer or sale of marihuana product as provided in the act and these rules. The marihuana retailer shall keep marihuana products behind a counter or other barrier to ensure that a customer does not have direct access to the marihuana products.

(6) A marihuana establishment shall ensure that the handling of marihuana product is done in compliance with current good manufacturing practice in manufacturing, packing, or holding human food, 21 CFR part 110.

(7) A marihuana establishment transferring marihuana product to or receiving marihuana product from a marihuana secure transporter shall initiate the procedures to transfer or receive the marihuana product within 30 minutes of the marihuana secure transporter's arrival at the marihuana establishment.

(8) A marihuana grower or a marihuana processor shall make reasonable efforts to sell or transfer marihuana products to a marihuana retailer not under common ownership or whose majority of ownership is not in common with either the marihuana grower or the marihuana processor to ensure that all marihuana establishments are properly serviced, to efficiently meet the demand for marihuana, and to provide for reasonable access to marihuana in rural areas. The agency may:

(a) Issue an order to place a limitation on a marihuana grower or a marihuana processor specifically limiting the amount of marihuana product that may be sold to marihuana processors and marihuana retailers under common ownership or whose majority of ownership is in common with the marihuana grower or the marihuana processor.

(b) Subject a licensee to sanctions or fines prescribed by Rule 20 for a violation of an order placing a limitation on a state license.

#### Rule 34. Building and fire safety.

(1) An applicant's proposed marihuana establishment and a licensee's marihuana establishment are subject to inspection by a state building code official, state fire official, or code enforcement official to confirm that no health or safety concerns are present.

(2) A state building code official, or his or her authorized designee, may conduct precensure and post-licensure inspections to ensure that applicants and licensees comply with the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531; the skilled trades regulation act, 2016 PA 407, MCL 339.5101 to 339.6133; the elevator safety board act, 1967 PA 227, MCL 408.801 to 408.824; and the elevator licensing act, 1976 PA 333, MCL 338.2151 to 338.2160.

(3) An applicant or licensee shall not operate a marihuana establishment unless a permanent certificate of occupancy has been issued by the appropriate enforcing agency. Before a certificate of occupancy is issued, work must be completed in accordance with the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531. An applicant or licensee shall comply with both of the following:

(a) An applicant or licensee shall obtain a building permit for any building utilized as a proposed marihuana establishment or marihuana establishment as provided in the act and these rules. The issuance, enforcement, and inspection of building permits under this act may remain with the governmental entity having jurisdiction under the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531.

(b) An applicant or licensee shall obtain a building permit for a change of occupancy for an existing building to be utilized as a proposed marihuana establishment or marihuana establishment as provided in the act and these rules.

(4) An applicant or licensee shall not operate a marihuana establishment unless the proposed marihuana establishment or marihuana establishment has passed the precensure fire safety inspection by the BFS. The state fire marshal, or his or her authorized designee, may conduct precensure and post-licensure inspections of a marihuana establishment. An applicant or licensee shall comply with the all of the following:

(a) A BFS inspection may be conducted at any reasonable time to ensure fire safety compliance as provided in this rule and subrule (5) of this rule. A BFS inspection may be annual or biannual and may result in the required installation of fire suppression devices or other means necessary for adequate fire safety pursuant to state standards.

(b) The BFS may require marihuana establishments to obtain operational permits, including, but not limited to, any of the following:

(i) Carbon dioxide systems used in beverage dispensing applications, amended for cultivation use and extraction.

(ii) Compressed gases.

(iii) Combustible fibers.

(iv) Flammable and combustible liquids.

(v) Fumigation and insecticidal fogging.

(vi) Hazardous materials.

(vii) High piled storage (high rack system cultivation).

(viii) Liquefied petroleum (LP) gas.

(c) For specific installation or systems, BFS may require marihuana establishments to obtain construction permits, including, but not limited to, any of the following:

(i) Building construction.

(ii) Electrical, mechanical, plumbing, boiler, and elevator.

(iii) Compressed gases.

(iv) Flammable and combustible liquids.

(v) Hazardous materials.

(vi) Liquefied petroleum (LP) gas.

(vii) Automatic fire extinguishing/suppression systems.

(viii) Fire alarm and detections systems.

(ix) Related equipment found during fire safety inspections.

(5) The state fire marshal, or his or her authorized designee, may conduct a BFS fire safety inspection of marihuana establishment, at any reasonable time to ensure compliance with the national fire protection association (NFPA) standard 1, 2018 edition, entitled “fire code,” which is adopted by reference in Rule 3. A licensee shall comply with the NFPA 1 as adopted and the following additional requirements:

(a) Ductwork must be installed with accordance with the Michigan mechanical code, R 408.30901 to R 408.30998.

(b) Suppression systems outlined in NFPA 1 and the Michigan mechanical code, R 408.30901 to R 408.30998, may be required to meet the suppression needs within a marihuana establishment.

(c) Marihuana processors, marihuana growers, marihuana safety compliance facilities, and marihuana microbusinesses shall implement appropriate exhaust ventilation systems to mitigate noxious gasses or other fumes used or created as part of any production process or operations. Exhaust and ventilation equipment must be appropriate for the hazard involved and must comply with NFPA 1 and Michigan mechanical code, R 408.30901 to R 408.30998.

(6) In addition to meeting all the requirements in subrules (1) to (5) of this rule, marihuana growers, marihuana processors, and marihuana microbusinesses shall also comply with all of the following:

(a) Permit the agency or its authorized agents, or state fire marshal or his or her authorized designee, to enter and inspect a marihuana grower, marihuana processor, and marihuana microbusiness at any reasonable time.

(b) Have conducted, in addition to any inspections required under the act and these rules, fire safety inspections that are required if any of the following occur:

(i) Modifications to the grow areas, rooms and storage, extraction equipment and process rooms, or marihuana-infused product processing equipment within a marihuana establishment.

(ii) Changes in occupancy.

(iii) Material changes to a new or existing marihuana grower, marihuana processor, or marihuana microbusiness establishment including changes made prelicensure and postlicensure.

(iv) Changes in extraction methods and processing or grow areas and building structures may trigger a new inspection.

(c) Ensure that extractions using compressed gases of varying materials including, but not limited to, butane, propane, and carbon dioxide that are used in multiple processes in cultivation or extraction meet all of the following:

(i) Flammable gases of varying materials may be used in multiple processes in cultivation or extraction and must meet the requirements in NFPA 58 and the international fuel gas code.

(ii) Processes that extract oil from marihuana plants and marihuana products using flammable gas or flammable liquid must have leak or gas detection measures, or both. All extraction equipment used in the marihuana establishment and equipment used in the detection of flammable or toxic gases, or both, must be approved by the BFS and may require construction permits.

(iii) Marihuana establishments that have exhaust systems must comply with the NFPA 1 and the Michigan mechanical code, R 408.30901 to R 408.30998.

(7) The requirements of this rule do not apply to:

(a) A marihuana event organizer applicant or licensee.

(b) A temporary marihuana event applicant or licensee.

Rule 35. Security measures; required plan; video surveillance system.

(1) An applicant for a state license to operate a proposed marihuana establishment shall submit a security plan that demonstrates, at a minimum, the ability to meet the requirements of this rule.

(2) A licensee shall ensure that any person at the marihuana establishment, except for employees of the licensee, are escorted at all times by the licensee or an employee of the licensee when in the limited access areas and restricted access areas at the marihuana establishment.

(3) A licensee shall securely lock the marihuana establishment, including all interior rooms, windows, and points of entry and exits, with commercial-grade, nonresidential door locks. Locks on doors that are required for egress shall meet the requirements of NFPA 1, local fire codes, and the Michigan building code, R 408.30401 to R 408.30499.

(4) A licensee shall maintain an alarm system at the marihuana establishment. Upon request, a licensee shall make available to the agency all information related to the alarm system, monitoring, and alarm activity.

(5) A licensee shall have a video surveillance system that, at a minimum, consists of digital or network video recorders, cameras capable of meeting the recording requirements in this rule, video monitors, digital archiving devices, and a color printer capable of delivering still photos.

(6) A licensee shall ensure the video surveillance system does all the following:

(a) Records, at a minimum, the following areas:

(i) Any areas where marihuana products are weighed, packed, stored, loaded, and unloaded for transportation, prepared, or moved within the marihuana establishment.

(ii) Limited access areas and security rooms. Transfers between rooms must be recorded.

(iii) Areas storing a surveillance system storage device with not less than 1 camera recording the access points to the secured surveillance recording area.

(iv) The entrances and exits to the building must be recorded from both indoor and outdoor vantage points. The areas of entrance and exit between marihuana establishments at the same location if applicable, including any transfers between marihuana establishments.

(v) Point of sale areas where marihuana products are sold and displayed for sale.

(vi) Anywhere marihuana or marihuana products are destroyed.

(b) Records at all times images effectively and efficiently of the area under surveillance with a minimum of 720p resolution.

(7) A licensee shall install each camera so that it is permanently mounted and in a fixed location. Each camera must be placed in a location that allows the camera to clearly record activity occurring within 20 feet of all points of entry and exit on the marihuana establishment and allows for the clear and certain identification of any person, including facial features, and activities, including sales or transfers, in all areas required to be recorded under these rules.

(8) A licensee shall have sufficient lighting to meet the video surveillance system requirements of this rule.

(9) A licensee shall have cameras that record continuously 24 hours per day and recorded images must clearly and accurately display the time and date.

(10) A licensee shall secure the physical media or storage device on which surveillance recordings are stored in a manner to protect the recording from tampering or theft.

(11) A licensee shall keep surveillance recordings for a minimum of 30 days, except in instances of investigation or inspection by the agency in which case the licensee shall retain the recordings until the time as the agency notifies the licensee that the recordings may be destroyed.

(12) Surveillance recordings of the licensee are subject to inspection by the agency and must be kept in a manner that allows the agency to view and obtain copies of the recordings at the marihuana establishment immediately upon request. The licensee shall also send or otherwise provide copies of the recordings to the agency upon request within the time specified by the agency.

(13) A licensee shall maintain a video surveillance system equipped with a failure notification system that provides notification to the licensee of any interruption or failure of the video surveillance system or video surveillance system storage device.

(14) A licensee shall maintain a log of the recordings, which includes all of the following:

(a) The identities of the employee or employees responsible for monitoring the video surveillance system.

(b) The identity of the employee who removed the recording from the video surveillance system storage device and the time and date removed.

(c) The identity of the employee who destroyed any recording.

(15) The requirements of this rule do not apply to an applicant for or a licensee who holds:

- (a) A designated consumption establishment license.
- (b) A marihuana event organizer license.
- (c) A temporary marihuana event license.

#### Rule 36. Prohibitions.

(1) Except for licensed designated consumption establishments or temporary marihuana events, marihuana products not identified and recorded in the statewide monitoring system pursuant to these rules must not be at a marihuana establishment. A licensee shall not transfer or sell a marihuana product that is not identified in the statewide monitoring system pursuant to these rules.

(2) Except for a licensed designated consumption establishment or temporary marihuana event, any marihuana product without a batch number or identification tag or label pursuant to these rules must not be at a marihuana establishment. A licensee shall immediately tag, identify, or record as part of a batch in the statewide monitoring system any marihuana product as provided in these rules.

(3) A licensee shall not allow a physician to conduct a medical examination or issue a medical certification document at a marihuana establishment for the purpose of obtaining a registry identification card.

(4) A violation of these rules may result in sanctions or fines, or both, in accordance with the act and these rules.

#### Rule 37. Marihuana product destruction and waste management.

(1) A marihuana product that is to be destroyed or is considered waste must be rendered into an unusable and unrecognizable form through grinding or another method as determined by the agency which incorporates the marihuana product waste with the non-consumable solid waste specified in subdivisions (a) to (h) of this subrule so that the resulting mixture is not less than 50% non-marihuana product waste:

- (a) Paper waste.
- (b) Plastic waste.
- (c) Cardboard waste.
- (d) Food waste.
- (e) Grease or other compostable oil waste.
- (f) Fermented organic matter or other compost activators.
- (g) Soil.

(h) Other wastes approved by the agency that will render the marihuana product waste unusable and unrecognizable.

(2) A marihuana product rendered unusable and unrecognizable and, therefore, considered waste, must be recorded in the statewide monitoring system.

(3) A licensee shall not sell marihuana waste or marihuana products that are to be destroyed, or that the agency orders destroyed.

(4) A licensee shall manage all waste that is hazardous waste pursuant to part 111 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.11101 to 324.11153.

(5) A licensee shall dispose of marihuana product waste in a secured waste receptacle using 1 or more of the following methods that complies with applicable state and local laws and regulations:

- (a) A manned and permitted solid waste landfill.
  - (b) A manned compostable materials operation or establishment.
  - (c) An in-vessel digester.
  - (d) An incineration method approved by state and local laws and regulations.
- (6) A licensee shall dispose of wastewater generated during the cultivation of marihuana and the processing of marihuana products in a manner that complies with applicable state and local laws and regulations.
- (7) A licensee shall maintain accurate and comprehensive records regarding marihuana product waste that accounts for, reconciles, and evidences all waste activity related to the disposal. The agency may publish guidance on marihuana product waste management.
- (8) For the purposes of this rule, “unrecognizable” means marihuana product rendered indistinguishable from any other plant material.
- (9) A licensed marihuana microbusiness or marihuana retailer who participates in a temporary marihuana event shall destroy and dispose of any marihuana product that is considered waste resulting from the licensee’s activities during the event according to the applicable provisions in this rule.
- (10) Except for the marihuana product waste specified in subrule (9) of this rule, a marihuana event organizer who holds a temporary marihuana event is responsible for destroying and disposing of any marihuana product waste that results from the event. All marihuana waste must be rendered unusable and unrecognizable and disposed of in accordance with this rule and in compliance with all applicable state and local laws and regulations.
- (11) A licensed designated consumption establishment shall destroy and dispose of any marihuana product left at the establishment that is considered waste in accordance with this rule and in compliance with all applicable state and local laws and regulations. The designated consumption establishment shall maintain a log of any marihuana product that is considered waste, which shall include a description of the waste and the amount and the manner in which it was disposed. The designated consumption establishment licensee shall make the log available to the agency upon request.

#### Rule 38. Storage of marihuana product.

- (1) All inventories of marihuana products must be stored at a marihuana establishment in a secured limited access area or restricted access area and must be identified and tracked consistently in the statewide monitoring system under these rules.
- (2) All containers used to store marihuana products for transfer or sale between marihuana establishments must be clearly marked, labeled, or tagged, if applicable, and enclosed on all sides in secured containers. The secured containers must be latched or locked in a manner to keep all contents secured within. Each secured container must be identified and tracked in accordance with the act and these rules.
- (3) All chemicals or solvents must be stored separately from marihuana products and kept in locked storage areas.
- (4) Marihuana-infused products, edible marihuana products, or materials used in direct contact with such marihuana-infused products or edible marihuana products, must have separate storage areas from toxic or flammable materials.
- (5) All marihuana products must be stored in compliance with current good manufacturing practice in manufacturing, packing, or holding human food, 21 CFR part

110. Marihuana products not in final packaging must be stored separately from other types of marihuana product in compliance with these rules.

(6) A marihuana retailer shall store all marihuana products for transfer or sale behind a counter or other barrier separated from stock rooms.

(7) A marihuana safety compliance facility shall establish an adequate chain of custody and instructions for sample and storage requirements.

(8) A licensee shall ensure that any stock or storage room meets the security requirements of these rules and any other applicable requirements in the act and these rules.

#### Rule 39. Marihuana microbusiness operation.

As applicable, a marihuana microbusiness licensee shall operate the corresponding areas of a marihuana microbusiness in compliance with the operation requirements of a marihuana retailer, a marihuana grower, and a marihuana processor as provided for in the act and these rules.

#### Rule 40. Transfer of marihuana between equivalent licenses.

(1) To ensure marihuana product is available for individuals 21 years of age or older, the agency may authorize licensees who hold equivalent licenses with common ownership to transfer marihuana product from the inventory of their marihuana facility to the inventory of their marihuana establishment.

(2) The following licensees who hold the following equivalent licenses with common ownership may accept the transfer of medical marihuana product under subrule (1) of this rule:

- (a) Class A marihuana growers;
- (b) Class B marihuana growers;
- (c) Class C marihuana growers;
- (d) Marihuana processors;
- (e) Marihuana retailers.

(3) The agency shall publish a specific start date, end date, and other requirements for the transfer of marihuana product between equivalent licenses.

(4) A licensee shall transfer marihuana product between equivalent licenses with common ownership in accordance with these rules and any requirements published by the agency.

(5) A licensee shall track the transfer of product between equivalent licenses with common ownership in the statewide monitoring system in accordance with these rules and any requirements published by the agency. Marihuana plants transferred pursuant to this rule shall count towards the authorized total amount of marihuana plants for a licensed marihuana grower.

(6) Marihuana product transferred to an equivalent license with common ownership may only be sold or transferred in accordance with the act and these rules.

(7) A licensee in receipt of transferred marihuana product shall track the marihuana product sold or transferred in accordance with these rules.

(8) A marihuana establishment is prohibited from transferring marihuana product inventory to a medical marihuana facility.

## PART 5. SAMPLING AND TESTING

Rule 41. Batch; sampling procedures.

(1) A marihuana grower shall uniquely identify each immature plant batch in the statewide monitoring system. Each immature plant batch must not consist of more than 100 immature plants.

(2) A marihuana grower shall tag each plant that is greater than 8 inches in height from the growing or cultivating medium or more than 8 inches in width with an individual plant tag and record the identification information in the statewide monitoring system.

(3) A marihuana grower shall delineate or separate the plants as the plants go through different growth stages and ensure that the plant tag is always identified with the plant throughout the growth span so that all plants can be easily identified and inspected pursuant to these rules. A marihuana grower shall ensure that identification information is recorded in the statewide monitoring system in accordance with these rules.

(4) After a tagged plant is harvested, it is part of a harvest batch so that a sample of the harvest batch can be tested by a marihuana safety compliance facility. A marihuana grower shall quarantine a harvest batch from other plants or batches that have test results pending. A harvest batch must be easily distinguishable from other harvest batches until the batch is broken down into packages.

(5) Before the marihuana product can leave the marihuana grower establishment, except as provided in subrule (6) of this rule, a sample of the harvest batch must be tested by a licensed marihuana safety compliance facility as provided in Rule 42 and Rule 43. All test results must indicate passed in the statewide monitoring system before the marihuana can be packaged. A marihuana product from harvest batches must not be transferred or sold until tested, packaged, and tagged as required under subrule (4) of this rule. A marihuana product from a harvest batch that fails safety testing may only be sold or transferred under the remediation protocol as provided in Rule 44. A marihuana product that fails testing and is remediated may only be sold or transferred once approved by the agency.

(6) A marihuana grower establishment may transfer or sell marihuana to a marihuana processor without first being tested by a marihuana safety compliance facility in order to produce live resin. The maximum harvest batch size for the production of live resin must be 60 pounds. After the marihuana processor has produced live resin, the marihuana processor shall have the sample tested pursuant to Rule 42 and Rule 43.

(7) After test results show a passed test and the harvest batch is packaged, the marihuana grower shall destroy the individual plant tags. Each package must have a package tag attached. A marihuana grower shall ensure this information is placed in the statewide monitoring system in accordance with these rules.

(8) A marihuana grower shall not transfer or sell any marihuana product that has not been packaged with a package tag attached and recorded in the statewide monitoring system in accordance with these rules.

(9) After a marihuana processor receives or purchases a package in the statewide monitoring system, and the marihuana processor proceeds to process the marihuana product in accordance with the scope of a marihuana processor license, the act, and these rules, the marihuana processor shall give the marihuana product a new package tag anytime the marihuana product changes form or is incorporated into something else.

(10) After a package is created by a marihuana processor of the marihuana product in its final state, the marihuana processor shall have the sample tested pursuant to Rule 42 and Rule 43. The marihuana processor shall not transfer or sell a final package to a marihuana retailer until after test results indicate a passed test.

(11) After a marihuana retailer receives or purchases a marihuana product in the statewide monitoring system, a licensee may sell or transfer marihuana product only to an individual 21 years of age or older under both of the following conditions:

(a) The marihuana product has received passing test results in the statewide monitoring system. If the information cannot be confirmed, the marihuana product must be tested by a marihuana safety compliance facility and receive passing test results before sale or transfer.

(b) The marihuana product bears the label required for retail sale under these rules.

#### Rule 42. Sampling.

(1) A marihuana safety compliance facility shall test samples as provided in these rules.

(2) A marihuana safety compliance facility shall collect samples of a marihuana product from another marihuana establishment according to the following requirements:

(a) The marihuana safety compliance facility shall physically collect samples of a marihuana product from another marihuana establishment to be tested at the marihuana safety compliance facility. The marihuana safety compliance facility shall ensure that samples of the marihuana product are placed in secured, sealed containers that bear the labeling information as required under these rules.

(b) The marihuana safety compliance facility shall collect a sample size sufficient to complete all analyses required, but the sample shall not be less than 0.5% of the weight of the harvest batch. The maximum harvest batch size must be 15 pounds. The agency may publish requirements for this subdivision based on the type of marihuana product being tested.

(c) The marihuana safety compliance facility shall collect a sample size sufficient to complete analyses required of the batch, but the sample shall be pursuant to a list of requirements published by the agency.

(d) The marihuana safety compliance facility shall enter in the statewide monitoring system the marihuana product sample that was collected from a marihuana grower, a marihuana processor, a marihuana retailer, or a marihuana microbusiness, including the date and time the marihuana product is collected, transferred, tested, and recorded within 3 business days of completion of testing.

(e) If a testing sample is collected from a marihuana establishment for testing in the statewide monitoring system, that marihuana establishment shall quarantine the marihuana product that is undergoing the testing from any other marihuana product at the marihuana establishment. The marihuana establishment shall indicate the sample being tested in the statewide monitoring system. The quarantined marihuana product must not be transferred or sold until testing results pass as provided under these rules.

(f) Any marihuana product that a marihuana safety compliance facility collects for testing from a licensee under this rule must not be transferred or sold to any other marihuana establishment other than the licensee from whom the sample was collected.

(g) A marihuana safety compliance facility may request additional sample material from the same licensee from which the sample was collected for the purposes of completing the required safety tests as long as the requirements of this rule are met.

Rule 43. Testing; marihuana safety compliance facility.

(1) A marihuana safety compliance facility shall do all of the following:

(a) Become fully accredited to the International Organization for Standardization (ISO), ISO/IEC 17025:2017 by an International Laboratory Accreditation Cooperation (ILAC) recognized accreditation body or by an entity approved by the agency within 1 year after the date the marihuana safety compliance facility license is issued and agree to have the inspections and reports of the International Organization for Standardization made available to the agency.

(b) Maintain internal standard operating procedures that conforms to ISO/IEC 17025:2017 standards.

(c) Maintain a quality control and quality assurance program that conforms to ISO/IEC 17025:2017 standards.

(2) A marihuana safety compliance facility shall use analytical testing methodologies for the required safety tests in subrule (3) of this rule that are validated by an independent third party and may be monitored on an ongoing basis by the agency or a third party. The agency shall approve the validated methodology used by the marihuana safety compliance facility and confirm that it produces scientifically accurate results for each safety test it conducts.

(3) A marihuana safety compliance facility shall conduct the required safety tests specified in subdivisions (a) to (g) of this subrule on marihuana product that is part of the harvest batch as specified in Rule 41. After the testing on the harvest batch is completed, the agency may publish a guide indicating which of the following safety tests are required based on product type when the marihuana product has changed form:

(a) Potency analysis performed just as the marihuana product is without any corrective factor taken for moisture content that includes concentrations of the following:

- (i) Tetrahydrocannabinol (THC).
- (ii) Tetrahydrocannabinol acid (THC-A).
- (iii) Cannabidiol (CBD).
- (iv) Cannabidiol acid (CBD-A).

(b) Foreign matter inspection.

(c) Microbial screening.

(d) Chemical residue testing that includes all of the following:

- (i) Pesticides.
- (ii) Fungicides.
- (iii) Insecticides.

(e) Heavy metals testing as required in this rule.

(f) Residual solvents. The agency shall publish a list of required residual solvents to be tested for and their action limits.

(g) Water activity including moisture content.

(4) A marihuana safety compliance facility shall conduct residual solvent testing on batches of marihuana concentrates and marihuana-infused products. The agency shall publish a list of required residual solvents to be tested for and their action limits.

(5) For the purposes of calculating potency of total THC and total CBD, the following calculations must be used:

(a) Total THC must be calculated as follows, where M is the mass or mass fraction of delta-9 THC or delta-9 THC-A:

$$M \text{ total delta-9 THC} = M \text{ delta-9 THC} + 0.877 \times M \text{ delta-9 THC-A.}$$

(b) Total CBD must be calculated as follows, where M is the mass or mass fraction of CBD and CBD-A:

$$M \text{ total CBD} = M \text{ CBD} + 0.877 \times M \text{ CBD-A.}$$

(c) For marihuana and concentrates total THC and total CBD must be reported in percentages.

(d) For marihuana infused products total THC and total CBD should be reported in milligrams per grams (mg/g).

(6) Except as otherwise provided in Rule 44, if a sample collected pursuant to Rule 42 or provided to a marihuana safety compliance facility pursuant to these rules does not pass the required safety tests, the marihuana establishment that provided the sample shall dispose of the entire batch from which the sample was taken and document the disposal of the sample using the statewide monitoring system pursuant to these rules.

(7) A marihuana safety compliance facility shall destroy any marihuana samples held for 30 days after test completion and dispose of the resulting waste in accordance with Rule 37.

(8) For the purposes of the microbial screening and foreign matter inspection, the agency shall publish a list of action limits. A marihuana sample with a value that exceeds the published action limit is considered to be a failed sample. A marihuana sample that is at or below the action limit is considered to be a passing sample.

(9) For the purposes of the heavy metal testing, the agency shall publish a list of action limits. A marihuana sample with a value that exceeds the published action limit is considered to be a failed sample. A marihuana sample that is at or below the action limit is considered to be a passing sample.

(10) For the purposes of the residual solvent test, the agency shall publish a list of action limits. A marihuana sample with a value that exceeds the published action limit is considered to be a failed sample. A marihuana sample that is at or below the action limit is considered to be a passing sample.

(11) For the purposes of the chemical residue test, the agency shall publish a list of action limits. A marihuana sample that is at or below the action limit is considered to be a passing sample. A marihuana sample with a value that exceeds the action limit is considered to be a failed sample.

(12) If a sample provided to a marihuana safety compliance facility pursuant to this rule and Rule 42 passes the safety tests required under subrule (2) of this rule, the marihuana safety compliance facility shall enter the information in the statewide monitoring system of passed test results within 3 business days of test completion. Passed test results must be in the statewide monitoring system for a batch to be released for immediate processing, packaging, and labeling for transfer or sale in accordance with the act and these rules.

(13) A marihuana safety compliance facility shall enter the results into the statewide monitoring system and file with the agency an electronic copy of each marihuana safety compliance facility test result for any batch that does not pass the required tests while it transmits those results to the establishment that provided the sample within 72 hours of test

completion. In addition, a marihuana safety compliance facility shall maintain the test results and make them available to the agency upon request.

(14) The agency shall establish a proficiency testing program and designate marihuana safety compliance facility participation. A marihuana safety compliance facility shall analyze proficiency test samples using the same procedures with the same number of replicate analyses, standards, testing analysts, and equipment as used for marihuana product testing. A marihuana safety compliance facility shall successfully analyze a set of proficiency testing samples not less than annually. A marihuana safety compliance facility shall have annual proficiency testing submitted directly to the agency from the proficiency testing vendor for review. The agency will not accept copies. All failed proficiency tests must include corrective action documentation and an additional acceptable proficiency test. Proficiency test results must be conveyed as numerical accuracy percentages, not simply as PASS/FAIL results. Actual PASS/FAIL results must be calculated based on accuracy thresholds generated by reproducibility studies specific to each assay.

(15) The agency shall take immediate disciplinary action against any marihuana safety compliance facility that fails to comply with the provisions of this rule or falsifies records related to this rule, including any sanctions or fines, or both.

(16) A marihuana safety compliance facility shall not do any of the following:

- (a) Desiccate samples unless performing moisture analysis on the sample.
- (b) Dry label samples.
- (c) Pre-test samples.

(17) A marihuana safety compliance facility shall comply with random quality assurance compliance checks upon the request of the agency. The agency or its authorized agents may collect a random sample of a marihuana product from a marihuana safety compliance facility or designate another marihuana safety compliance facility to collect a random sample of a marihuana product in a secure manner to test that sample for compliance pursuant to this rule.

(18) A marihuana safety compliance facility may perform terpene analysis on a marihuana product by a method approved by the agency. There are no established safety standards for this analysis.

(19) A marihuana safety compliance facility shall comply with investigations to ensure the health and safety of the public. At the request of the agency a marihuana safety compliance facility may be requested to perform testing as part of an investigation.

#### Rule 44. Retesting.

(1) A marihuana safety compliance facility may test or retest a sample to validate the results of a failed safety test except as indicated under subrule (3) of this rule. A failed safety test must include documentation detailing the initial failure and the corrective action in the statewide monitoring system. The marihuana establishment that provided the sample is responsible for all costs involved in a retest.

(2) A failed test sample must pass 2 separate retests with new samples consecutively to be eligible to proceed to sale or transfer. The marihuana safety compliance facility that reported the results of a failed safety test shall not perform the separate retests. If both retests pass, the batch is out of quarantine and eligible for sale or transfer. If 1 or both retests fail, the marihuana product must be destroyed as provided in these rules or remediated as described in subrule (4) of this rule.

(3) A marihuana product is prohibited from being retested in all the following circumstances:

(a) A final test for chemical residue failed pursuant to these rules. If the amount of chemical residue found is not permissible by the agency, the marihuana product is ineligible for retesting and the product must be destroyed.

(b) A final failed test for microbials on marihuana-infused product is ineligible for retesting and the product must be destroyed.

(4) The agency may publish a remediation protocol including, but not limited to, the sale or transfer of marihuana product after a failed safety test as provided in these rules.

## PART 6: MARIHUANA-INFUSED PRODUCTS AND EDIBLE MARIHUANA PRODUCT

Rule 45. Requirements and restrictions on marihuana-infused products; edible marihuana product.

(1) A marihuana processor shall package and properly label marihuana-infused products before sale or transfer.

(2) Marihuana-infused products processed under these rules must be homogenous. The allowable variation for weight and THC and CBD concentrations between the actual results and the intended serving is to be + or – 15%. The agency shall publish guidelines for a marihuana processor to follow to verify the marihuana-infused product is homogeneous.

(3) A marihuana processor of marihuana-infused products shall list and record the THC concentration and CBD concentration of marihuana-infused products, as provided in Rules 43 and 46, in the statewide monitoring system and indicate the THC concentration and CBD concentration on the label along with the tag identification as required under these rules. Items that are part of a product recall issued in the statewide monitoring system, or by the agency, or other state agency, if applicable, must be immediately pulled from production by the marihuana processor of the marihuana-infused products and not sold or transferred.

(4) Marihuana-infused products must be stored and secured as prescribed under these rules.

(5) At a minimum, a marihuana processor shall label any marihuana-infused product it produces or packages with all of the following:

(a) The name and address of the marihuana establishment that processes or packages the marihuana-infused product.

(b) The name of the marihuana-infused product.

(c) The ingredients of the marihuana-infused product, in descending order of predominance by weight.

(d) The net weight or net volume of the product.

(e) For an edible marihuana product, the marihuana processor shall comply with subdivisions (a) to (d) of this subrule and all of the following:

(i) Allergen labeling as specified by the Food and Drug Administration (FDA), Food Allergen Labeling and Consumer Protection Act of 2004 (FALCPA), 21 USC 343.

(ii) If any nutritional claim is made, appropriate labeling as specified by Code of Federal Regulations, Food Labeling, 21 CFR part 101.

(iii) The following statement printed in at least the equivalent of 11-point font size in a color that provides a clear contrast to the background: "Made in a marihuana establishment."

(6) A marihuana processor of edible marihuana product shall comply with all the following to ensure safe preparation:

(a) 21 CFR part 110. Any potentially hazardous ingredients used to process shelf-stable edible marihuana products must be stored at 40 degrees Fahrenheit, 4.4 degrees Celsius, or below.

(b) Provide annual employee training for all employees on safe food handling and demonstrate an employee's completion of this training by providing proof of food handler certification that includes documentation of employee food handler training, including, but not limited to, allergens and proper sanitation and safe food handling techniques. Any course taken pursuant to this rule must be conducted for not less than 2 hours and cover the following subjects:

(i) Causes of foodborne illness, highly susceptible populations, and worker illness.

(ii) Personal hygiene and food handling practices.

(iii) Approved sources of food.

(iv) Potentially hazardous foods and food temperatures.

(v) Sanitization and chemical use.

(vi) Emergency procedures, including, but not limited to, fire, flood, and sewer backup.

(c) A licensee, to ensure compliance with the safe preparation standards under this subrule, shall comply with 1 or more of the following:

(i) The FDA food safety modernization act, 21 USC 2201 to 2252.

(ii) Safe Quality Food (SQF), 7.2 edition adopted by reference pursuant to Rule 3.

(iii) The International Organization for Standardization (ISO), ISO 22000/ISO/TS 22002-1 adopted by reference pursuant to Rule 3.

(d) The agency may request in writing documentation to verify certifications and compliance with these rules.

(7) A marihuana processor of edible marihuana product shall comply with all the following:

(a) No edible marihuana product package can be in a shape or labeled in a manner that would appeal to minors aged 17 years or younger. No edible marihuana product can be associated with or have cartoons, caricatures, toys, designs, shapes, labels, or packaging that would appeal to minors.

(b) No edible marihuana product can be easily confused with commercially sold candy. The use of the word candy or candies on the packaging or labeling is prohibited. No edible marihuana product can be in the distinct shape of a human, animal, or fruit or a shape that bears the likeness or contains characteristics of a realistic or fictional human, animal, or fruit, including artistic, caricature, or cartoon renderings. Edible marihuana products that are geometric shapes and simply fruit flavored are permissible.

(c) An edible marihuana product must be in opaque, child-resistant packages or containers that meet the effectiveness specifications outlined in 16 CFR 1700.15. An edible marihuana product containing more than one serving must be in a resealable package or container that meets the effectiveness specifications outlined in 16 CFR 1700.15.

(8) A marihuana processor shall not produce an edible marihuana product that requires time or temperature control for safety. The agency may publish validation guidelines for

shelf life edible marihuana product. The agency may request to review the validation study for a shelf-life edible marihuana product. The end product must be a stable shelf-life edible marihuana product and state the following information:

(a) Expiration or use-by date. A product expiration date, upon which the marihuana product is no longer fit for consumption, or a use-by date, upon which the marihuana product is no longer optimally fresh. Once a label with an expiration or use-by date has been affixed to a marihuana product, a licensee shall not alter that expiration or use-by date or affix a new label with a later expiration or use-by date.

(b) Any other information requested by the agency that is not inconsistent with the act and these rules.

(9) As used in this rule, the term “edible marihuana product” means any marihuana-infused product containing marihuana that is intended for human consumption in a manner other than smoke inhalation.

(10) This rule does not affect the application of any applicable local, state, or federal laws or regulations.

Rule 46. Maximum THC concentration for marihuana-infused products.

Marihuana-infused products processed, sold, or transferred through marihuana retailers must not exceed the maximum THC concentration as established by the agency. For the purposes of maximum THC concentration for marihuana-infused products, the agency shall publish a list of maximum THC concentration and serving size limits.

## PART 7: SALE OR TRANSFER

Rule 47. Tracking identification; labeling requirements; general.

(1) All marihuana products sold or transferred between marihuana establishments must have the tracking identification numbers that are assigned by the statewide monitoring system affixed, tagged, or labeled and recorded, and any other information required by the agency, the act, and these rules.

(2) To ensure access to safe sources of marihuana products, the agency, if alerted in the statewide monitoring system, may recall any marihuana products, issue safety warnings, and require a marihuana establishment to provide information material or notifications to a customer at the point of sale.

Rule 48. Marihuana plant; tracking requirements.

Before a marihuana plant is sold or transferred, a package tag must be affixed to the plant or plant container and enclosed with a tamper proof seal that includes all of the following information:

(a) Business or trade name, licensee number, and the RFID package tag assigned by the statewide monitoring system that is visible.

(b) Name of the strain.

(c) Date of harvest, if applicable.

(d) Seed strain, if applicable.

(e) Universal symbol, if applicable.

Rule 49. Marihuana product sale or transfer; labeling and packaging requirements.

(1) Before a marihuana product is sold or transferred to or by a marihuana retailer, the container, bag, or product holding the marihuana product must have a label and be sealed with all of the following information:

(a) The name of the licensee and the state license number of the producer, including business or trade name, and tag or source number as assigned by the statewide monitoring system.

(b) The name of the licensee and the state license number including business or trade name of the licensee that packaged the product, if different from the marihuana processor of the marihuana product.

(c) The unique identification number for the package or the harvest, if applicable.

(d) Date of harvest, if applicable.

(e) Name of strain, if applicable.

(f) Net weight in United States customary and metric units.

(g) Concentration of THC and CBD.

(h) Activation time expressed in words or through a pictogram.

(i) Name of the marihuana safety compliance facility that performed any test, any associated test batch number, and any test analysis date.

(j) The universal symbol for marihuana product published on the agency's website.

(k) A warning that states all the following:

(i) "For use by individuals 21 years of age or older only. Keep out of reach of children."

(ii) "It is illegal to drive a motor vehicle while under the influence of marihuana."

(iii) "National Poison Control Center 1-800-222-1222."

(2) An edible marihuana product sold by a marihuana retailer shall comply with Rule 45(7).

Rule 50. Sale or transfer; marihuana retailer.

(1) A marihuana retailer may sell or transfer a marihuana product to an individual 21 years of age or older if all of the following are met:

(a) The licensee confirms that the customer presented his or her valid driver's license or government-issued identification card that bears a photographic image and he or she is 21 years of age or older.

(b) The licensee determines, if completed, any transfer or sale will not exceed the purchasing limit prescribed in Rule 51.

(c) Any marihuana product that is sold or transferred under this rule has been tested and is labelled and packaged for sale or transfer in accordance with Rule 49.

(2) A marihuana retailer shall enter all transactions, current inventory, and other information required by these rules in the statewide monitoring system in compliance with the act and these rules. The marihuana retailer shall maintain appropriate records of all sales or transfers under the act and these rules and make them available to the agency upon request.

(3) A marihuana retailer is not required to retain information from customers other than the following:

(a) Payment method.

(b) Amount of payment.

(c) Time of sale.

- (d) Product quantity.
- (e) Other product descriptors.

**Rule 51. Purchasing limits; single transaction; marihuana retailer.**

A marihuana retailer is prohibited from making a sale or transferring marihuana to an adult 21 years of age or older in a single transaction that exceeds 2.5 ounces, except that not more than 15 grams of marihuana may be in the form of marihuana concentrate.

**Rule 52. Marketing and advertising restrictions.**

(1) A marihuana establishment shall comply with all municipal ordinances, state law, and these rules that regulate signs and advertising.

(2) A licensee shall not engage in advertising that is deceptive, false, or misleading. A licensee shall not make any deceptive, false, or misleading assertions or statements on any marihuana product, any sign, or any document provided.

(3) A licensee shall not advertise or market a marihuana product to members of the public unless the licensee has reliable evidence that no more than 30 percent of the audience or readership for the television program, radio program, internet web site, or print publication, is reasonably expected to be under 21 years of age. Any marihuana product advertised or marketed under this rule shall include the warnings listed in Rule 49(1)(k).

(4) A marihuana product must be marketed or advertised as “marihuana” for use only by individuals 21 years of age or older.

(5) A marihuana product must not be marketed or advertised to individuals under 21 years of age. Sponsorships targeted to members under 21 years of age are prohibited.

**Rule 53. Trade samples.**

(1) The following licensees may provide trade samples:

(a) A marihuana grower may provide samples of marihuana or marihuana products to a marihuana processor or a marihuana retailer.

(b) A marihuana processor may provide a sample of marihuana or marihuana products to a marihuana processor or marihuana retailer.

(2) The transfer of trade samples does not require the use of a marihuana secure transporter provided the amount of trade samples does not exceed either:

(a) 15 ounces of marihuana.

(b) 60 grams of marihuana concentrate.

(3) Except for a licensed designated consumption establishment, the samples may not be consumed or used on the premises of a licensed marihuana establishment.

(4) Trade samples may not be sold to another licensee or consumer.

(5) Any sample provided to another licensee or received by a licensee must be recorded in the statewide monitoring system.

(6) Any trade samples provided under this rule must be tested in accordance with these rules prior to being transferred to another licensee.

(7) A licensee is limited to providing the following aggregate amounts of trade samples to another licensee in a 30-day period:

(a) 2.5 ounces or less of marihuana.

(b) 15 grams of marihuana concentrate.

(8) Any sample given to a licensee shall have a label containing the following in a legible font:

(a) A statement that reads: “TRADE SAMPLE NOT FOR RESALE” in bold, capital letters attached to the trade sample.

(b) All other information required in Rule 45.

(9) A licensee having received a trade sample may distribute the trade sample to its employees to determine whether to purchase the marihuana product.

#### Rule 54. Internal product testing samples.

(1) A marihuana grower, marihuana processor, marihuana retailer, or marihuana microbusiness may provide internal product testing samples directly to their employees for the purpose of ensuring product quality and making determinations about whether to sell the marihuana product.

(2) Except for a licensed designated consumption establishment, internal product testing samples may not be consumed or used on the premises of a licensed marihuana establishment.

(3) Internal product testing samples may not be transferred or sold to another licensee or consumer.

(4) Any internal product testing sample provided under this rule must be recorded in the statewide monitoring system.

(5) A marihuana grower is limited to providing a total of 2.5 ounces or less of internal product testing samples to their employees in a 30-day period.

(6) A marihuana processor is limited to providing a total of 5 grams of marihuana concentrate of internal product testing samples to their employees in a 30-day period.

#### Rule 55. Research and development.

(1) A marihuana grower or marihuana processor may engage in research and development. No other marihuana establishment may engage in research and development.

(2) A marihuana grower may designate up to 50 marihuana plants for research and development. Any marihuana plants designated for research and development shall count towards the authorized total amount of marihuana plants for a marihuana grower establishment and must be tracked in the statewide monitoring system.

(3) A marihuana processor may designate up to 5 grams of marihuana concentrate for research and development in a 30-day period. Any marihuana concentrates designated for research and development must be tracked in the statewide monitoring system.

(4) A marihuana grower or marihuana processor may transfer its research and development inventory to its employees for consumption. A marihuana grower or marihuana processor shall have research and development inventory tested pursuant to Rule 42 and Rule 43 before transfer to its employees. The marihuana grower or marihuana processor shall not transfer or sell research and development inventory to a marihuana retailer until after test results indicate a passed test. Any research and development inventory that is not properly transferred to an employee must be destroyed pursuant to Rule 37.

(5) The inventory designated for research and development may not be consumed or used on the premises of a licensed marihuana grower or marihuana processor.

(6) A marihuana grower or marihuana processor shall not transfer or sell inventory designated for research and development to another marihuana establishment.

## PART 8: EMPLOYEES

Rule 56. Employees; requirements.

(1) A licensee shall conduct a criminal history background check on any prospective employee before hiring that individual. A licensee shall keep records of the results of the criminal history background checks. A licensee shall record confirmation of criminal history background checks and make the confirmation available for inspection upon request by the agency.

(2) A licensee shall comply with all of the following:

(a) Not allow a person under 21 years of age to volunteer or work for the marihuana establishment pursuant to section 11 of the act, MCL 333.27961.

(b) Not employ any individual who has been convicted for an offense involving distribution of a controlled substance to a minor.

(c) Have a policy in place that requires employees to report any new or pending charges or convictions. If an employee is convicted for an offense involving distribution of a controlled substance to a minor, the licensee shall report it immediately to the agency. The agency shall maintain a list of excluded employees.

(d) Enter in the statewide monitoring system the employee's information and level of statewide monitoring system access within 7 business days of hiring for the system to assign an employee identification number. The licensee shall update in the statewide monitoring system employee information and changes in status or access within 7 business days.

(e) If an employee is no longer employed by a licensee, the licensee shall remove that employee's access and permissions to the marihuana establishment and the statewide monitoring system.

(f) Train employees and have an employee training manual that includes, but is not limited to, employee safety procedures, employee guidelines, security protocol, and educational training, including, but not limited to, marihuana product information, dosage and purchasing limits if applicable, or educational materials. If applicable, the employee training manual shall include a responsible operations plan as specified in subdivision (g) of this subrule.

(g) A responsible operations plan which shall include a detailed explanation of how employees will monitor and prevent over-intoxication, underage access to the establishment, the illegal sale or distribution of marihuana or marihuana products within the establishment, and any other potential criminal activity on the premises, as applicable.

(h) Establish point of sale or transfer procedures for employees at marihuana retailers performing any transfers or sales to individuals 21 years of age or older. The point of sale or transfer procedures must include, but are not limited to, training in dosage, marihuana product information, health or educational materials, point of sale training, purchasing limits, CBD and THC information, serving size, and consumption information including any warnings.

(i) Screen prospective employees against a list of excluded employees based on a report or investigation maintained by the agency in accordance with subdivision (c) of this subrule.

(j) A licensee shall ensure that employees handle marihuana product in compliance with current good manufacturing process in manufacturing, packing, or holding human food, 21 CFR part 110, as specified in Rule 33.

(3) If an individual is present at a marihuana establishment or in a marihuana secure transporter vehicle who is not identified as a licensee or an employee of the licensee in the statewide monitoring system or is in violation of the act or these rules, the agency may take any action permitted under the act and these rules. This subrule does not apply to authorized escorted visitors at a marihuana establishment.

(4) Employee records are subject to inspection or examination by the agency to determine compliance with the act or these rules.

(5) Consumption of food by employees or visitors is prohibited where marihuana product is stored, processed or packaged or where hazardous materials are used, handled, or stored unless the marihuana establishment has a designated area for the consumption of food that includes, but is not limited to, a room with floor to ceiling walls and a door that separates the room from any marihuana product.

(6) As used in this rule “employee” includes, but is not limited to, hourly employees, contract employees, trainees, or any other person given any type of employee credentials or authorized access to the marihuana establishment. Trade services provided by individuals not normally engaged in the operation of a marihuana establishment, except for those individuals required to have employee credentials under this rule, must be reasonably monitored, logged in as a visitor, and escorted through any limited access areas.

(7) Nothing in this rule prohibits a marihuana establishment from allowing visitors into the establishment provided the visitors are reasonably monitored, logged in as a visitor, and escorted through any limited access areas. Further, visitors that are not employees or providing trade services are prohibited where hazardous materials are used, handled, or stored in the marihuana establishment.

Rule 57. Marihuana retailer delivery employees; delivery for individuals 21 years of age or older; limited circumstances.

(1) A marihuana retailer may employ an individual to engage in the delivery of a marihuana product for sale or transfer to an individual 21 years of age or older.

(2) A marihuana retailer that employs an individual under subrule (1) of this rule shall establish procedures as specified in this rule to allow an employee of the marihuana retailer to deliver a marihuana product to an individual 21 years of age or older at the residential address or at the address of a designated consumption establishment provided at the time the order was placed. All of the following procedures apply to the delivery procedures established by a marihuana retailer:

(a) For the purposes of this rule only, a marihuana retailer may accept an online order request of a marihuana product and payment for the order that will be delivered to the residential address or the address of a designated consumption establishment provided by an individual 21 years of age or older as provided in this rule.

(b) The marijuana retailer creates a delivery procedure that is subject to inspection and examination including, but not limited to, record keeping and tracking requirements. The agency may publish guidelines on the recommended procedure.

(c) The delivery employee meets the requirements in Rule 56 and is an employee of the marijuana retailer.

(d) The agency has authorized the marijuana retailer licensee's proposed delivery procedure.

(e) Any other delivery procedures required in this rule.

(3) A marijuana retailer that has received authorization under subrule (2) of this rule shall comply with all of the following:

(a) The marijuana retailer shall verify that the sale or transfer to the individual 21 years of age or older is in accordance with Rule 50 and this rule. The delivery employee may take cash payment upon delivery and shall deliver the marijuana product only to the physical residential address or to the address of a designated consumption establishment provided by the individual at the time the order was placed.

(b) The amount of marijuana product that may be delivered is limited to the single transaction purchase limits as provided in Rule 51.

(c) The marijuana retailer shall record all transactions in the statewide monitoring system as required in these rules.

(d) An employee of the marijuana retailer shall make deliveries only to an individual 21 years of age or older. A delivery employee shall verify that the person taking delivery is 21 years of age or older and the individual who placed the order.

(e) The authorization granted to a marijuana retailer pursuant to subrule (2) of this rule may be denied, suspended, or withdrawn by the agency. The marijuana retailer may be subject to other sanctions and fines as provided in the act and these rules.

(4) A marijuana retailer shall maintain records of all of the following that must be made available to the agency upon request:

(a) Confirmation that the customer presented his or her valid driver's license or government-issued identification bearing a photographic image of the customer to verify he or she is 21 years of age or older at the time of delivery.

(b) Validation that the address for delivery of a marijuana product is the residential address or at the address of a designated consumption establishment provided by the customer at the time the order for the marijuana product was placed.

(c) Documentation that the customer has consented to the delivery of marijuana product.

(d) Maintenance of the following records for any motor vehicle used for delivery and the making of the records available to the agency upon request:

(i) Vehicle make.

(ii) Vehicle model.

(iii) Vehicle color.

(iv) Vehicle identification number.

(v) License plate number.

(vi) Vehicle registration.

(5) A delivery employee shall carry a copy of all of the following information and shall make these records available to the agency upon request:

(a) The employee identification number required under Rule 56.

- (b) The marihuana retailer licensee license number.
  - (c) The address of the marihuana retailer licensee.
  - (d) Contact information of the marihuana retailer licensee.
  - (e) A copy of the marihuana retailer delivery log as required in subrule (10) of this rule.
- (6) A delivery employee shall have access to a secure form of communication with the marihuana retailer licensee, such as a cellular telephone, at all times in the vehicle or on his or her person.
- (7) To ensure the integrity of the marihuana retailer operation, a delivery employee shall comply with all the following:
- (a) During delivery, the delivery employee shall maintain a physical or electronic copy of the delivery request and shall make the delivery request available to the agency upon request.
  - (b) A delivery employee shall not leave a marihuana product in an unattended motor vehicle unless the motor vehicle is locked and equipped with an active vehicle alarm system.
  - (c) A delivery employee's vehicle shall contain a global positioning system (GPS) device for identifying the geographic location of the delivery vehicle. The device must be either permanently or temporarily affixed to the delivery vehicle while the delivery vehicle is in operation, and the device must remain active and in the possession of the delivery employee at all times during delivery. At all times, the marihuana retailer must be able to identify the geographic location of all delivery vehicles and delivery employees who are making deliveries for the marihuana retailer and shall provide that information to the agency upon request.
  - (d) While making deliveries, a delivery employee shall travel only from the marihuana retailer's licensed marihuana establishment to the delivery addresses and back to the marihuana retailer. A delivery employee shall make no more than 10 deliveries per trip before returning to the marihuana retailer. In making deliveries, a marihuana retailer shall not transport more than 15 ounces of marihuana or more than 60 grams of marihuana concentrate at one time pursuant to section 11 of the act, MCL 333.27961. A delivery employee shall not deviate from the delivery limit or delivery path described in this subrule except in an emergency that is reported to the marihuana retailer and documented in the residential delivery log. A delivery employee may refuel the vehicle during a stop that is reported and documented in the delivery log.
  - (e) While making deliveries, a delivery employee shall not carry marihuana product valued in excess of the amount of the customer's delivery of the marihuana product at any time. A marihuana retailer shall have a procedure subject to the agency's approval that establishes the amount of money a delivery employee is allowed to have on his or her person at any 1 time during the delivery process. All transactions must be completed in 1 business day and any money collected during the delivery process must be returned to the marihuana retailer.
  - (f) A delivery employee of a marihuana retailer shall not be employed as a home or delivery employee for multiple marihuana retailers, provisioning centers, or marihuana microbusinesses.
- (8) A marihuana retailer shall ensure that deliveries are completed in a timely and efficient manner as provided on the delivery request and log. All deliveries must occur within the business hours of the marihuana retailer. During a delivery, a delivery employee

shall not store a marihuana product in a vehicle used for deliveries other than in a secured compartment. Marihuana product for delivery must be packaged separately per delivery order, not comingled during the delivery, stored within a secured compartment that is clearly marked, and latched or locked in a manner to keep all contents secured within.

(9) The process of delivery begins when the delivery employee leaves the marihuana retailer's marihuana establishment with the marihuana product for delivery. The process of delivery ends when the delivery employee returns to the marihuana retailer's licensed marihuana establishment after delivering the marihuana product to the customer.

(10) A marihuana retailer shall maintain a record of each delivery of a marihuana product in a delivery log, which may be a hard copy or electronic format, and make the delivery log available to the agency upon request. For each delivery, the delivery log must record all of the following:

- (a) The date and time that the delivery began and ended.
- (b) The name of the delivery employee.
- (c) The amount of marihuana product allowed to be possessed for delivery.
- (d) The lot number of the marihuana product and the name of the strain of that marihuana product.
- (e) The signature of the customer who accepted delivery.
- (f) The deviations made under subrule 7(d).

(11) A marihuana retailer shall notify the agency, state police, or local law enforcement of any theft, loss of marihuana product, or criminal activity as provided in Rule 16. A marihuana retailer shall report to the agency and law enforcement, if applicable, any other event occurring during delivery that violates the delivery procedure as provided in this rule, including diversion of marihuana product.

(12) This rule does not affect the application of any applicable local, state, or federal laws or regulations.

## PART 9. SPECIAL LICENSES

Rule 58. Special licenses; eligibility.

(1) A person may apply to the agency for a special license as described under section 8 of the act and issued pursuant to section 9 of the act, MCL 333.27958 and 333.27959, and these rules. The agency may allow certain license types to submit applications and process them sooner than the date specified in the act to ensure there is adequate marihuana product available for customers and a functioning licensing and regulatory framework in place as soon as possible. A person may apply to the agency for a special license in the following categories:

- (a) Designated consumption establishment license. A designated consumption establishment license is valid for 1 year.
- (b) Excess marihuana grower license. An excess marihuana grower license is valid for 1 year.
- (c) Marihuana event organizer license. A marihuana event organizer license is valid for 1 year.
- (d) Temporary marihuana event license. A temporary marihuana event license is valid for a minimum of 1 day and ends on the date specified on the state license.

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

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

**Rule 59. Designated consumption establishment license.**

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

(2) A person may apply for a designated consumption establishment license on the form created by the agency accompanied by the nonrefundable application fee as prescribed in these rules. An application for a designated consumption establishment license shall be made under oath on a form provided by the agency. A complete application for a designated consumption establishment license shall contain the information required in Rule 7 of these rules and the following, including, but not limited to:

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

- (i) The proposed establishment's size and dimensions.
- (ii) Specifications of the designated consumption establishment.
- (iii) Physical address.
- (iv) Location of common entryways, doorways, or passageways.
- (v) Means of public entry or exit.

(vi) An indication of the distinct areas or structures for separate marihuana establishments at the same location as provided in Rule 31.

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

- (i) Dimensions of the consumption establishment including interior and exterior rooms.
- (ii) Number of rooms.
- (iii) Dividing structures.
- (iv) Fire walls.
- (v) Entrances and exits.
- (vi) Locations of hazardous material storage, if applicable.
- (vii) Means of egress.

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

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

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

(f) Zoning classification and zoning information.

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

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

(i) A business plan, which includes a description of the proposed hours of operation.

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

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

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

(m) A marihuana product destruction and waste management plan that meets the requirements of Rule 37, as applicable, for destroying and disposing of waste left at the marihuana establishment.

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

(4) An applicant shall pay the fees required under Rule 10 of these rules.

(5) An applicant is subject to the precursors investigation and proposed establishment inspection required under Rule 12 of these rules.

(6) An applicant is subject to the proof of financial responsibility and insurance requirements under Rule 13 of these rules.

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

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

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

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

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

#### Rule 60. Excess marihuana grower license.

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

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

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

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

(5) An applicant for an excess marihuana grower license is subject to and shall meet the requirements in Rules 5 to 9 of these rules.

(6) An applicant for an excess marihuana grower license shall pay applicable fees required under Rule 10 of these rules.

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

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

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

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

(11) An applicant shall pay the initial licensure fee within 30 days of issuance of excess marihuana grower license.

(12) A marihuana grower's application for an excess grower license is exempt from the application fee of \$6,000 under Rule 10.

#### Rule 61. Marihuana event organizer license.

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

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

(3) An applicant for a marihuana event organizer license is subject to and shall meet the requirements in Rules 5 through 9 of these rules, as applicable.

(4) An applicant for a marihuana event organizer license shall pay the nonrefundable application fee and any other fees required under Rule 10 of these rules.

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

#### Rule 62. Temporary marihuana event license; application; operations.

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

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

(3) A temporary marihuana event license shall only be issued for a single day or up to 7 consecutive days. No temporary marihuana event license will be issued for more than 7 days.

(4) An application for a temporary marihuana event license shall be submitted to the agency no less than 90 calendar days before the first day of the temporary marihuana event.

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

(6) An application for a temporary marihuana event license shall be made under oath on a form provided by the agency and shall contain information as prescribed by the agency, including, but not limited to:

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

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

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

(d) The name of the temporary marihuana event.

(e) A diagram of the physical layout of the temporary marihuana event. The diagram shall clearly indicate all of the following:

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

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

(iii) All marihuana consumption areas.

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

(v) Where marihuana waste will be stored.

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

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

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

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

(h) Contact information for a designated contact person(s) who shall be onsite at the event and reachable by telephone at all times that the event is occurring.

(i) Written attestation on a form provided by the agency from the municipality authorizing the applicant to engage in onsite marihuana sales to, and onsite consumption by, persons 21 years of age or older at the temporary marihuana event at the proposed location.

(j) A list of all licensees and employees that will be providing onsite sales of marihuana products at the temporary marihuana event. If the list of licensees and employees participating in the temporary marihuana event changes after the application is submitted or after the temporary marihuana event license is issued, the applicant shall submit an

updated list and an updated diagram to the agency not less than 72 hours before the event. Licensees not on the list submitted to the agency shall not participate in the temporary marihuana event.

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

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

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

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

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

(12) The marihuana event organizer licensee shall ensure that all marihuana waste generated at a temporary marihuana event shall be collected and disposed of in accordance with the requirements of Rule 37 of these rules, as applicable.

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

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

(15) Upon notification from the agency, the marihuana event organizer shall immediately expel from the event any person selling marihuana products without a state license issued by the agency. The marihuana event organizer or their representative shall remain with the person being expelled from the premises at all times until he or she vacates the premises. If the person does not vacate the premises, the agency may inform the marihuana event organizer that the event must cease operations. Upon notification from the agency that the event is to cease operations, the marihuana event organizer shall immediately stop the event and all participants shall be removed from the premises within the time frame provided by the agency.

Rule 63. Temporary marihuana event fee.

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

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

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

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

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

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

(3) A marihuana event organizer's application for a temporary marihuana event license is exempt from the application fee of \$6,000 under Rule 10.

Rule 64. Temporary marihuana event sales.

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

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

(3) All sales of marihuana products at a temporary marihuana event must occur in a retail area as designated in the premises diagram required in Rule 62.

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

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

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

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

(8) All sales at a temporary marihuana event shall occur on the dates stated on the state license and shall occur at the location stated on the state license. All onsite sales of marihuana products must comply with the hours of operation requirements in Rule 62.

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

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

(11) All marihuana products made available for sale at a temporary marihuana event by a licensee shall comply with all requirements of the act and these rules for the sale and tracking of marihuana products. This includes, but is not limited to, the following:

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

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

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

Rule 65. Renewal; notifications; inspections and investigations; penalties; sanctions; fines; sale or transfer.

(1) A designated consumption establishment and marihuana event organizer license are issued for a 1-year period and may be renewed. An applicant for renewal must meet the requirements, as applicable, and apply in the manner prescribed in Rule 15.

(2) A designated consumption establishment and marihuana event organizer applicant or licensee are subject to the notification and reporting requirements specified in Rule 16 as applicable.

(3) A designated consumption establishment or marihuana event organizer licensee or licensee participating in a temporary marihuana event shall comply with the notification requirements for theft, loss, or criminal activity pertaining to marihuana product under Rule 17 of these rules, as applicable.

(4) An applicant for or a licensed designated consumption establishment or marihuana event organizer are subject to the inspections and investigations specified in Rule 18 of these rules, as applicable.

(5) An applicant for or a licensed designated consumption establishment or marihuana event organizer are subject to Rule 19 and Rule 20 of these rules regarding violations, sanctions, and fines.

(6) A licensee selling marihuana products at a temporary marihuana event shall comply with the requirements of Rule 49 regarding the sale or transfer of marihuana.

(7) A licensee selling marihuana products at a temporary marihuana event shall comply with the requirements of Rule 51 regarding purchasing limits in a single transaction.

## PART 10: HEARINGS

Rule 66. Definitions.

This part uses terms as defined in Rule 1, sections 1 and 3 of the act, MCL 333.27951 and 333.27953, and section 3 of the APA, MCL 24.203. In addition, as used in this part:

(a) “Agency” means the marijuana regulatory agency, authority, or officer created by the constitution, statute, or agency action.

(b) “APA” means the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(c) “Contested case hearing” means an administrative hearing conducted by an administrative law judge within the MOAHR on behalf of the agency in accordance with the act and these rules.

(d) “MOAHR” means the Michigan office of administrative hearings and rules within the department of licensing and regulatory affairs.

(e) “MAHS general hearing rules” means the administrative hearing rules promulgated by the Michigan administrative hearing system set forth in R 792.10101 to R 792.10137 of the Michigan administrative code.

(f) “Public investigative hearing” means a proceeding before the marijuana licensing agency to provide an applicant an opportunity to present testimony and evidence to establish eligibility for a state license.

#### Rule 67. Hearing procedures; scope and construction of rules.

(1) These rules apply to hearings under the jurisdiction of the agency involving the denial of a state license or other licensing action or involving complaints brought by licensees.

(2) These rules are construed to secure a fair, efficient, and impartial determination of the issues presented in a manner consistent with due process.

(3) If the rules do not address a specific procedure, the MAHS general hearing rules, the Michigan court rules, and the contested case provisions of sections 71 to 87 of the APA, MCL 24.271 to 24.287, apply.

#### Rule 68. Hearing on state license denial.

(1) An applicant denied a state license by the agency may request a public investigative hearing in writing within 21 days of service of notice of the denial.

(2) After the agency receives notice of an applicant’s request for a public investigative hearing, the agency shall provide an opportunity for this hearing at which the applicant may present testimony and evidence to establish suitability for a state license.

(3) The agency shall provide the applicant with written notice of the public investigative hearing not less than 2 weeks before the hearing date. The notice must include all of the following information:

(a) A statement of the date, hour, place, and nature of the hearing.

(b) A statement of the legal authority and jurisdiction under which the hearing is to be held.

(c) A short and plain statement of the issues involved, and reference to the pertinent sections of the act and rules involved.

(d) A short description of the order and manner of presentation for the hearing.

(4) Not less than 2 weeks before the hearing, the agency shall post notice of the public investigative hearing at its business office in a prominent place that is open and visible to the public.

(5) The agency, or 1 or more administrative law judges designated and authorized by the agency, shall conduct and preside over the public investigative hearing and shall do all of the following:

- (a) Administer oaths or affirmations to witnesses called to testify at the hearing.
- (b) Receive evidence in the form of testimony and exhibits.
- (c) Establish and regulate the order of presentation and course of the public investigative hearing; set the time and place for continued hearings; and fix the time for filing written arguments, legal briefs, and other legal documents.
- (d) Accept and consider relevant written and oral stipulations of fact and law that are made part of the hearing record.
- (6) Upon timely request of the applicant or the agency in accordance with the Michigan court rules, the agency or the agency's designated administrative law judge may issue subpoenas duces tecum for the production of books, ledgers, records, memoranda, electronically retrievable data, and other pertinent documents and administer oaths and affirmations to witnesses as appropriate to exercise and discharge the powers and duties under the act.
- (7) During the public investigative hearing, the applicant and the agency must be given a full opportunity to present witnesses, ask questions or cross-examine the opposing party's witnesses, and present all relevant information to the agency regarding the applicant's eligibility and suitability for licensure.
- (8) The applicant shall at all times have the burden of establishing, by clear and convincing evidence, its eligibility and suitability for licensure under the act and these rules.
- (9) The agency shall record the public investigative hearing at its direction, stenographically or by other means, to adequately ensure preservation of an accurate record of the hearing.
- (10) Following the public investigative hearing, the agency shall decide whether to affirm, reverse, or modify in whole or in part the denial of state license.
- (11) The agency's decision to affirm, reverse, or modify in whole or in part the denial of state license must be based on the whole record before the agency and not be limited to testimony and evidence submitted at the public investigative hearing.
- (12) The agency's decision to affirm, reverse, or modify in whole or in part the denial of state license must be reduced to writing and served upon the applicant and agency within a reasonable time.

#### Rule 69. Review of licensing action.

- (1) A licensee who has been notified of a state license violation, or of the agency's intent to suspend, revoke, restrict, or refuse to renew a state license or impose a fine, may be given an opportunity to show compliance with the requirements before the agency taking action as prescribed by these rules.
- (2) A licensee aggrieved by an action of the agency to suspend, revoke, restrict, or refuse to renew a state license, or to impose a fine, may request a contested case hearing in writing within 21 days after service of notice of the intended action.
- (3) Upon receipt of a timely request, the agency shall provide the licensee an opportunity for a contested case hearing in accordance with sections 71 to 87 of the APA, MCL 24.271 to 24.287, and the MAHS general hearing rules.
- (4) The contested case hearing must be conducted by an administrative law judge or judges within the MOAHR.

(5) Upon timely request of the licensee or the agency in accordance with the Michigan court rules, an assigned administrative law judge may issue subpoenas duces tecum for the production of books, ledgers, records, memoranda, electronically retrievable data, and other pertinent documents, and administer oaths and affirmations to witnesses as appropriate to exercise and discharge the powers and duties under these rules.

(6) The agency has the burden of proving, by a preponderance of the evidence, that sufficient grounds exist for the intended action to suspend, revoke, restrict, or refuse to renew a state license, or to impose a fine, or summarily suspend a state license.

#### Rule 70. Summary suspension.

(1) If the agency summarily suspends a state license under these rules, without notice or hearing upon a determination that the safety or health of patrons or employees is jeopardized by continuing a marihuana establishment's operation, a post-suspension hearing must be held promptly to determine if the suspension should remain in effect, in accordance with section 92 of the APA, MCL 24.292, and the MAHS general hearing rules.

(2) At the post-suspension hearing, the agency has the burden of proving by a preponderance of the evidence that the summary suspension should remain in effect because the safety or health of patrons or employees is jeopardized by continuing a marihuana establishment's operation.

(3) Immediately after the post-suspension hearing, the administrative law judge assigned to hear the matter shall issue a written order granting or denying dissolution of the summary suspension.

(4) If the licensee fails to appear at the post-suspension hearing, the administrative law judge shall find that the safety or health of patrons or employees is jeopardized by continuing a marihuana establishment's operation and continue the order of summary suspension.

(5) The record created at the post-suspension hearing becomes a part of the record at any subsequent hearing in the contested case.

#### Rule 71. Proposal for decision.

Following an opportunity for a public investigative hearing or contested case hearing and closure of the record after submission of briefs, if any, the administrative law judge shall prepare and serve upon the parties a proposal for decision containing proposed findings of fact and conclusions of law, in accordance with section 81 of the APA, MCL 24.281.

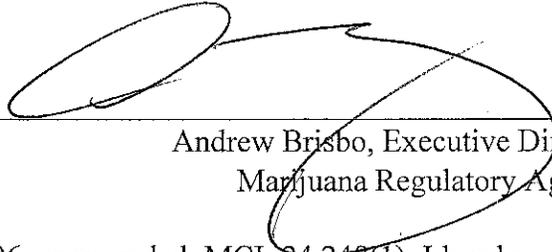
#### Rule 72. Final order.

(1) The agency shall consider the entire public investigative or contested case record and may affirm, reverse, or modify all or part of the proposal for decision.

(2) The agency's decision must be reduced to writing and served upon the licensee within a reasonable time.

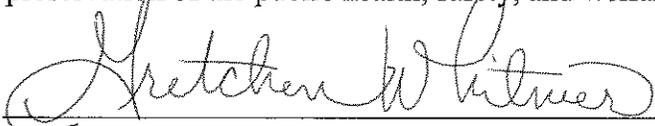
(3) The review decision or order of the agency following an opportunity for hearing is deemed to be the final agency decision or order for purposes of judicial review under chapter 6 of the APA, MCL 24.301 to 24.306.

MARIJUANA REGULATORY AGENCY



Andrew Brisbo, Executive Director  
Marijuana Regulatory Agency

Pursuant to Section 48(1) of 1969 PA 306, as amended, MCL 24.248(1), I hereby concur in the finding of the Marijuana Regulatory Agency that the circumstances creating an emergency have occurred and the promulgation of the above rules is required for the preservation of the public health, safety, and welfare.



Gretchen Whitmer, Governor

7/2/19

Date