

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

EMERGENCY RULE

19 CSR 100-1.010 Definitions

PURPOSE: This rule defines terms used in Chapter 1.

EMERGENCY STATEMENT: This emergency rule informs citizens of the new definitions pertaining to the regulation of marijuana for adult and medical use. This emergency rule is necessary to protect a compelling governmental interest since Amendment 3 to the Missouri Constitution made significant changes to the regulation of marijuana, and new rules will be needed to effectuate those changes. As a result, the Department of Health and Senior Services finds a compelling governmental interest, which requires emergency action. A proposed rule, which covers the same material, is published in this issue of the Missouri Register. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The Department of Health and Senior Services believes this emergency rule is fair to all interested persons and parties under the circumstances. If an emergency is not enacted, there would be no rules explaining how the new provisions of Article XIV of the Missouri Constitution apply, and there would be much confusion as to the processes and procedures related to licensure and regulation of the marijuana industry. This emergency rule was filed January 20, 2023, becomes effective February 3, 2023, and expires August 1, 2023.

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

- (A) Ingestion of capsules, teas, oils, and other marijuana-infused products;
- (B) Vaporization or smoking of dried flowers, buds, plant material, extracts, oils, and other marijuana-infused products;
- (C) Application of ointments or balms;
- (D) Transdermal patches and suppositories;
- (E) Consuming marijuana-infused food products; or
- (F) Any other method recommended by a qualifying patient’s physician or nurse practitioner.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(25) “Enclosed, locked facility” means a stationary, fully enclosed, locked space:

(A) Equipped with functioning security devices that permit access to only the consumer(s), qualifying patient(s), or primary caregiver(s) who have informed the department that this is the space where they will cultivate marijuana; and

(B) Where plants are not be visible to the unaided eye from a public space.

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

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

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

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

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

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

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

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

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

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

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

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

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

- (A) Wrap or paper;
- (B) Dried flower, buds, and/or plant material; and
- (C) A concentrate, oil, or other type of marijuana extract, either within or on the surface of the product

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

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

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

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

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

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

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

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

(46) “Marijuana Facility” means a comprehensive marijuana cultivation facility, comprehensive marijuana dispensary facility, comprehensive marijuana-infused products manufacturing facility, marijuana testing facility, transportation facility, microbusiness wholesale facility, microbusiness dispensary facility, or any other type of marijuana-related facility or business licensed or certified by the department pursuant to Article XIV, Section 2 of the Missouri Constitution, but shall not include a medical facility or marijuana research facility.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(61) “Medical use” means the production, possession, delivery, distribution, transportation, or administration of marijuana or a marijuana-infused product, or

drug paraphernalia used to administer marijuana or a marijuana-infused product, for the benefit of a qualifying patient to mitigate the symptoms or effects of the patient's qualifying medical condition.

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

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

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

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

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

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

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

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

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

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

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

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

- (A) A wrap or paper; and
- (B) Dried flower, buds, and/or plant material.

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

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

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

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

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

- (A) Cancer;
- (B) Epilepsy;
- (C) Glaucoma;
- (D) Intractable migraines unresponsive to other treatment;
- (E) A chronic medical condition that causes severe, persistent pain or persistent muscle spasms, including, but not limited to, those associated with multiple sclerosis, seizures, Parkinson’s disease, and Tourette’s syndrome;
- (F) Debilitating psychiatric disorders, including, but not limited to, post-traumatic stress disorder, if diagnosed by a state licensed psychiatrist;
- (G) Human immunodeficiency virus or acquired immune deficiency syndrome;

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

(I) Any terminal illness; or

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

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

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

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

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

(83) "SOP" means standard operating procedure.

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

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

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

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

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

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

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

AUTHORITY: Sections 1.3.(1)(b), 1.3.(2), 2.4(1)(b), and 2.4(4) of Article XIV, Mo. Const. Emergency rule filed January 20, 2023, effective February 3, 2023, expires August 1, 2023. A proposed rule covering this same material is published in this issue of the Missouri Register.

PUBLIC COST: This emergency rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the time the emergency is effective.

PRIVATE COST: This emergency rule will not cost private entities more than five hundred dollars (\$500) in the time the emergency is effective.