
EMERGENCY RULE

TITLE 19 – DEPARTMENT OF HEALTH AND SENIOR SERVICES

Division 100 – Division of Cannabis Regulation Chapter 1 – Marijuana

EMERGENCY RULE

19 CSR 100-1.170 Manufacturing Facilities

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

EMERGENCY STATEMENT: This emergency rule serves to implement and enforce Article XIV and to ensure the right to, availability, and safe use of marijuana product. 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. 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) Manufacturing Facilities, Generally.

(A) A manufacturing facility licensee's authority to engage in the process of manufacturing marijuana-infused products includes the ability to –

1. Acquire marijuana from a cultivation facility;
2. Acquire marijuana product from another manufacturing facility to further process;
3. Acquire marijuana product from a dispensary facility;
4. Process and store (on- or off-site) marijuana product;
5. Manufacture and package marijuana-infused products and prerolls;
6. Transfer marijuana product to or from its own warehouse storage facility, another manufacturing facility, cultivation facility, or dispensary facility;
7. Transfer marijuana product to a testing facility; and
8. Sell marijuana product to another manufacturing facility, cultivation facility, dispensary facility, or testing facility.

(B) A manufacturing licensee's authority to manufacture marijuana-infused products shall include the creation of prerolls and infused prerolls.

(2) Manufacturing Licensee Requirements. In addition to this chapter's requirements for licensed facilities and licensees, manufacturing licensees shall also comply with the following:

(A) Manufacturing licensees must mitigate odors from all odor sources by –

1. Developing, implementing, and maintaining an odor control plan, which shall address odor mitigation practices such as system design and operational processes;

2. Engaging a professional engineer or certified industrial hygienist to review the odor control plan and certify that the plan is sufficient to effectively mitigate odors from all odor sources prior to commencing operations; and

3. Maintaining compliance with local ordinances related to odor;

(B) Marijuana-infused products shall not be transferred to a dispensary facility until the marijuana-infused product has been tested by a testing facility, according to the provisions of this chapter, and the manufacturing licensee has received verification from the testing facility that the marijuana-infused product passed all required testing;

(C) Manufacturing licensees that produce ingestible marijuana-infused products shall comply with the applicable food safety standards set forth in 19 CSR 20 and any relevant statutes controlling food safety standards. Such licensees are prohibited from producing frozen desserts or acidified foods, as defined by 19 CSR 20;

(D) Manufacturing licensees that use volatile solvents shall install air-handling systems and other controls designed to minimize the risks of explosions and fires. These controls should include systems to prevent ignition; Volatile Solvent Standard Operating Procedures; plans for safe storage, use, and disposal of solvents; and policies for continuous staff monitoring of all processes involving volatile solvents;

(E) Any tetrahydrocannabinol in a marijuana product manufactured by a manufacturing licensee shall only be derived from marijuana cultivated in Missouri by a licensed cultivator;

(F) Manufactured product may not contain chemical modification, conversion, or synthetic derivation of cannabinoids to produce intoxicating cannabinoid isomers, and all cannabinoids acquired from entities other than marijuana facilities for purpose of inclusion in marijuana product must be accompanied by a Certificate of Analysis at time of acquisition that identifies the testing lab that tested the product and lists the product's ingredients; and

(G) Manufacturing licensees shall track all ingredients used in any given manufactured product.

AUTHORITY: sections 1.3.(1)(b), 1.3.(2), 2.4(1)(b), and 2.4(4) of Article XIV, Mo. Const. Emergency rule filed Jan. 20, 2023, effective Feb. 3, 2023, expires Aug. 1, 2023. An emergency rule and a proposed rule covering this same material will be published in the March 1, 2023, 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.