

Missouri Division of Cannabis Regulation

Guidance Document – 1/20/2023

New Emergency and Proposed Rule Guidance

Emergency and Proposed Rules

On January 20, 2023, the Department filed emergency and proposed rules in 19 CSR 100 that will take the place of the rules that applied only to medical marijuana facilities in 19 CSR 30-95. The emergency rules and proposed rules are identical, with two exceptions. First, the Department has temporarily retained all of the existing rule requirements that were previously in 19 CSR 30-95.070 for testing marijuana product. These provisions can now be found in emergency rule 19 CSR 100-1.110. In contrast, the proposed rule 19 CSR 100-1.110, which will go through the formal rulemaking process, contains new requirements that are roughly the same as those in the draft recently posted on our website. The second exception is for packaging requirements. Because the rules that outline packaging and labeling are closely integrated with the testing rules, the Department is also retaining the packaging requirements previously expressed in 19 CSR 30-95.040(4)(K). These provisions can now be found in emergency rule 19 CSR 100-1.120. In contrast, the proposed rule 19 CSR 100-1.120, which will go through the formal rulemaking process, contains new requirements that are roughly the same as those in the draft recently posted on our website. To be clear, the packaging and labeling requirements and testing requirements that have been in place will remain in place, and all licensees should continue to comply with those rules, as applicable, until the proposed rules are in effect.

Variance and Waiver from Emergency Rules filed on January 20, 2023

The Department has also issued waivers and variances for specific emergency rules to allow time for licensees to come into compliance with these requirements. As of February 3, 2023, the effective date of the emergency rules, licensees must be in compliance with all applicable rules outlined in 19 CSR 100-1, with the exception of the rules covered by these variances and waivers. However, it is the Department's expectation that licensees begin immediately working towards coming into compliance with the rules for which a waiver or variance has been given.

If additional time is needed for a licensee to come into compliance with a rule for which a waiver or variance has been given, licensees may submit a variance request. The Department expects such a request will demonstrate that the licensee has actively worked to come into compliance, justify the additional delay, and propose a reasonable extension related to the reasons for delay. Licensees that are not in compliance upon expiration of the waiver or variance and that have not been granted additional time may be subject to fines, notices of violation, or other Department disciplinary actions. As the new marijuana rules go through the formal rulemaking process, the Department will continue to review all waivers and variances to determine if additional time is needed for licensees to comply.

Conversion and local governments

The Department is aware that Article XIV includes provisions regarding local zoning and ordinances of comprehensive licensees, granting local governments authority over those decisions based on their interpretation of the law. Because of that, we encourage you to reach out to your local government officials to discuss any potential changes.

Compliance with local zoning and ordinances is not a consideration for the conversion application process or required prior to approving a conversion request. However, compliance with all applicable local requirements is required for licensees per 19 CSR 100-1.100 on an ongoing basis. Where licensees are working with local governments to transition to new requirements, the Department will address each licensee's circumstances on a case by case basis. You are encouraged to communicate with your Compliance Officer if local government compliance is an issue you are addressing.

General Compliance Guidance

The emergency rules filed on January 20, 2023, and effective February 3, 2023, include some new requirements for licensees. The Department understands that time is required to allow licensees to come into compliance with the new requirements. Waivers and variances have been given for areas of the emergency rule where coming into compliance is not likely to be achievable on a short timeframe. For areas of rule that were not the subject of a waiver or variance, the Department expects licensees to make updates to their facility or processes to be able to comply with the rule. We understand that this will not happen overnight but licensees must be actively working towards compliance with 19 CSR 100-1.

It should not be assumed that an area of the facility or process is compliant with the emergency rule because there has been no change since the licensee's commencement inspection. It is the expectation that licensees make the necessary changes to come into compliance with 19 CSR 100-1.

Please note that the emergency rules permit new activities for licensees, such as transportation to additional license types and creation of pre-rolls. Prior to implementing new activities outlined in the emergency rule, a licensee must incorporate the activity into their standard operating procedures and ensure staff that complete the task are trained to allow for the activity to be completed in compliance with rule.

As we work to implement the Adult Use program, the Department will be providing guidance to licensees to assistance with compliance of the marijuana rules. With this, it is also the expectation that licensees are aware of the rules that apply to them and are actively working to be in compliance with those rules. Please take this opportunity to review the emergency rules before they are effective and develop a plan to come into compliance. Licensees that are not in compliance may be subject to fines, notices of violation, or other Department disciplinary actions.