

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

BUREAU OF MEDICAL MARIHUANA REGULATION

MEDICAL MARIHUANA FACILITIES

Filed with the Secretary of State on

These rules become effective immediately upon filing with the Secretary of State unless adopted under section 33, 44, or 45a(6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the department of licensing and regulatory affairs by section 206 of the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27206.)

R 333.201, R 333.202, R 333.203, R 333.205, R 333.206, R 333.207, R 333.208, R 333.209, R 333.210, R 333.211, R 333.212, R 333.213, R 333.214, R 333.215, R 333.216, R 333.217, R 333.218, R 333.219, R 333.220, R 333.221, R 333.231, R 333.232, R 333.233, R 333.234, R 333.235, R 333.236, R 333.237, R 333.238, R 333.245, R 333.246, R 333.247, R 333.248, R 333.261, R 333.262, R 333.271, R 333.272, R 333.273, R 333.274, R 333.275, R 333.276, R 333.281, R 333.282, R 333.291, R 333.292, R 333.293, R 333.294, R 333.295, R 333.296, R 333.297, R 333.298, and R 333.299 are added to the Michigan Administrative Code as follows:

PART 1. GENERAL PROVISIONS

R 333.201 Definitions.

Rule 1. As used in these rules:

(a) "Act" means the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801.

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

(c) "Building" means a combination of materials forming a structure affording a facility 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.

(d) "Bureau" means the bureau of medical marihuana regulation in the department of licensing and regulatory affairs.

(e) "Bureau of fire services" or "BFS" means the bureau of fire services in the department of licensing and regulatory affairs.

(f) "Department" means the department of licensing and regulatory affairs.

(g) "Director" means the director of the department of licensing and regulatory affairs or his or her designee.

(h) "Employee" means a person performing work or service for compensation.

(i) "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.

(j) "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.

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

(l) "Marihuana facility" means a location at which a licensee is licensed to operate under the act and these rules.

(m) "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.

(n) "Marihuana tracking act" means the marihuana tracking act, 2016 PA 282, MCL 333.27901 to 333.27904.

(o) "Michigan medical marihuana act" means the Michigan medical marihuana act, 2008 IL 1, MCL 333.26421 to 333.26430.

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

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

(r) "Proposed marihuana facility" means a location at which an applicant plans to operate under the act and these rules if the applicant is issued a state operating license.

(s) "Restricted access area" means a designated and secure area at a marihuana facility where marihuana products are sold, possessed for sale, and displayed for sale.

(t) "Same location" means separate state operating licenses that are issued to multiple marihuana facilities that are authorized to operate at a single property but with separate business suites, partitions, or addresses.

(u) "Stacked license" means more than 1 state operating license issued to a single licensee to operate as a grower of class C-1,500 marihuana plants as specified in each license at a marihuana facility.

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

#### R 333.202 Terms; meanings.

Rule 2. Terms defined in the act have the same meanings as used in these rules unless otherwise indicated.

#### R 333.203 Adoption by reference.

Rule 3. 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 \$99.50.

(b) Cannabis Inflorescence: Standards of Identity, Analysis, and Quality Control monograph Revision 2014 published by the American Herbal Pharmacopoeia. A copy of that publication may be obtained from the American Herbal Pharmacopoeia, P.O. Box 66809, Scotts Valley, California 95067, or at the internet address <http://www.herbal-ahp.org/>, for the price of \$44.95.

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

(d) The International Organization for Standardization (ISO), ISO 22000 / ISO/TS 22002-1:2009 - food safety bundle, available for purchase at:

<https://webstore.ansi.org/RecordDetail.aspx?sku=ISO+22000+%2f+ISO%2fTS+22002-1+-+Food+Safety+Bundle>, for the price of \$275.00.

(e) International Organization for Standardization (ISO), ISO/IEC 17025:2005 or 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.

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

## PART 2. STATE OPERATING LICENSE

R 333.205 Application procedure; requirements.

Rule 5. (1) A person may apply for a state operating license on the form created by the department accompanied by the application fee as prescribed in these rules. 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 R 333.206 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 R 333.207 are completed. The department shall not issue a 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 department issued a notice of prequalification status for a pending application unless otherwise determined by the department. After 1 year has expired, the applicant may be required to submit a new application and pay a new application fee.

(3) The department may delay an application while additional information is requested including, but not limited to, requests for additional disclosures and documentation to be furnished to the department.

(4) As used in this rule, R 333.206, and R 333.207, the term “applicant” includes an officer, director, and managerial employee of the applicant and a person who holds any direct or indirect ownership interest in the applicant as provided in section 102 of the act, MCL 333.27102.

R 333.206 Application requirements; financial and criminal background.

Rule 6. (1) The first part of the application is a financial background and full criminal history background check of each applicant.

(2) An applicant shall disclose the identity of every person having any ownership interest in the applicant with respect to which the license is sought including, but not limited to, date of birth, government issued identification, and any other documents required by the act.

(3) Each applicant shall disclose the financial information required in the act and these rules in a form created by the department including, but not limited to, all of the following:

(a) Financial statements, including information regarding all of the following:

(i) A pecuniary interest.

(ii) Any deposit of value of the applicant or made directly or indirectly to the applicant, or both.

(iii) Financial accounts, including but not limited to, all of the following:

(A) Funds.

(B) Savings, checking, or other accounts including all applicable account information, such as the name of the financial institution, names of the account holders, account type, account balances, and a list of all loans, amounts, securities, or lender information.

(b) Property ownership information, including, but not limited to, deeds, leases, rental agreements, real estate trusts, purchase agreements, or institutional investors.

(c) Tax information, including, but not limited to, W-2 and 1099 forms, and any other information required by the department.

(d) For in-state and out-of-state applicants, the applicant’s business organizational documents filed with this state, local county, or foreign entity, if applicable, including proof of registration to do business in this state and certificate of good standing from this state or foreign entity, if applicable.

(e) Disclosure by the applicant of the identity of any other person who meets either of the following:

(i) Controls, directly or indirectly, the applicant.

(ii) Is controlled, directly or indirectly, by the applicant or by a person who controls, directly or indirectly, the applicant.

(f) Written consent by the applicant to a financial background investigation as authorized under the act and these rules.

(g) Disclosure by the applicant of any true parties of interest as required in section 404 of the act, MCL 333.27404.

(h) Disclosure by the applicant of the stockholders or other persons having a 1% or greater beneficial interest in the proposed marihuana facility as required in section 303 of the act, MCL 333.27303.

(i) The sources and total amount of the applicant's capitalization to operate and maintain the proposed marihuana facility in compliance with R 333.212.

(j) A financial statement attested by a certified public accountant (CPA), on a form created by the department, including a foreign-attested CPA statement, or its equivalent if applicable, on capitalization pursuant to R 333.212.

(k) Information on the financial ability of the applicant to purchase and maintain adequate liability and casualty insurance in compliance with R 333.211.

(l) Any other documents, disclosures, or attestations created or requested by the department that are not inconsistent with the act or these rules.

(4) Each applicant shall disclose to the department his or her criminal history background information and regulatory compliance as provided under the act and these rules in a form created by the department, including, but not limited to, all the following:

(a) An attestation in writing that the person consents to inspections, examinations, searches, and seizures that are permitted under the act and these rules.

(b) Written consent to a criminal history check, submission of a passport quality photograph, and handwriting exemplar as required under section 402 of the act, MCL 333.27402.

(c) One set of fingerprints to the department of state police in accordance with section 402 of the act, MCL 333.27402, and these rules for each applicant, each person having any ownership interest in the proposed marihuana facility.

(d) An attestation affirming a continuing duty to provide information requested by the department and to cooperate in any investigation, inquiry, or hearing.

(e) An attestation acknowledging that sanctions may be imposed for violations on a licensee while licensed or after the license has expired, as provided in the act and these rules.

(f) Disclosure of noncompliance with any regulatory requirements in this state or any other jurisdiction.

(g) Disclosure of an application or issuance of any commercial license or certificate issued in this state or any other jurisdiction that meets the requirements under section 401(1)(e) of the act, MCL 333.27401(1)(e).

(h) Any other documents, disclosures, or attestations created or requested by the department that are not inconsistent with the act or these rules.

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

#### R 333.207 Application requirements; complete application.

Rule 7. A complete application for a state operating license must include all the information specified in R 333.206 and all of the following:

(a) A description of the type of marihuana facility, including 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 facility.

(v) A security plan, as required under the act and these rules.

(b) A copy of the proposed marihuana facility plan, as required under R 333.209.

(c) An applicant shall pass the precensure inspection as determined by the department and as required in R 333.210.

(d) Confirmation of compliance with the municipal ordinance as required in section 205 of the act, MCL 333.27205, and these rules. For purposes of these rules, confirmation of compliance must be on an attestation form prepared by the department that contains all of the following information:

(i) Written affirmation that the municipality has adopted an ordinance under section 205 of the act, MCL 333.27205, including, if applicable, a description of any limitations on the number of each type of marihuana facility.

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

(iii) The 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 signature of the applicant.

(v) The marihuana facility 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 department.

(e) The disclosure of the true party of interest as required in section 404 of the act, MCL 333.27404, and these rules.

(f) The disclosure of persons that have a beneficial interest as required in section 303(1)(g) of the act, MCL 333.27303.

(g) Additional information and documents requested by the department not inconsistent with the act and these rules.

(h) Any other documents, disclosures, or attestations created or requested by the department that are not inconsistent with the act and these rules.

#### R 333.208 Application; fees; assessment.

Rule 8. (1) An applicant for a state operating 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.

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

(3) An applicant shall pay the regulatory assessment, if applicable, on or before the date the licensee begins operating and annually thereafter, pursuant to section 603 of the act, MCL 333.27603, and these rules.

(4) The department shall not issue a license until a complete application is submitted, the fees required under these rules are paid, and the department determines that the applicant is qualified to receive a license under the act and these rules.

#### R 333.209 Marihuana facility plan.

Rule 9. (1) An applicant shall submit a marihuana facility plan for the proposed marihuana facility as required in R 333.207 and upon request by the department. Upon the request of the department, an applicant or licensee may be required to submit a revised marihuana facility plan.

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

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

(i) A statement in the marihuana facility plan that a combination of state operating licenses will operate as separate marihuana facilities at the same location, as provided under R 333.232.

(ii) A statement in the marihuana facility plan that the applicant has or intends to apply to stack a license at the proposed marihuana facility as provided under R 333.220.

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

(i) The proposed facility's size and dimensions.

(ii) Specifications of the marihuana facility.

(iii) Physical address.

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

(v) Means of public entry or exit.

(vi) Limited-access areas within the marihuana facility.

(vii) An indication of the distinct areas or structures for separate marihuana facilities at the same location as provided in R 333.232.

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

(i) Dimensions of the marihuana facility 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, free-standing, or fixed.

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

(h) Zoning classification and zoning information.

(i) If the proposed marihuana facility is in a location that contains multiple tenants and any applicable occupancy restrictions.

(j) A proposed security plan that demonstrates the proposed marihuana facility meets the security requirements specified in R 333.235.

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

(3) Any changes or modifications to the marihuana facility plan under this rule must be reported to the department and may require preapproval by the department.

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

(5) The department may reinspect the marihuana facility to verify the plan at any time and may require that the plan be resubmitted upon renewal.

R 333.210 Prelicensure investigation; proposed marihuana facility inspection.

Rule 10. (1) An applicant for a state operating license shall submit to a prelicensure physical inspection of a proposed marihuana facility, as determined by the department.

(2) The department shall establish an inspection process to confirm that the applicants and proposed marihuana facilities meet the requirements of the act and these rules.

(3) The department shall investigate an applicant in accordance with the act and these rules.

(4) The department, through its investigators, agents, auditors, or the state police, shall conduct inspections and examinations of an applicant and a proposed marihuana facility in accordance with the act and these rules.

(5) An applicant shall submit proof to the department 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.

(b) A fire safety inspection as specified in R 333.234.

#### R 333.211 Proof of financial responsibility; insurance.

Rule 11. (1) Before a 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 section 408 of the act, MCL 333.27408, 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 department.

(2) In addition to the proof of financial responsibility requirements contained in subrule (1) of this rule, a renewal applicant or licensee shall also carry commercial general liability insurance covering premises liability for an amount not less than \$100,000.00. An applicant shall provide proof of commercial general liability insurance covering premises liability to the department no later than 60 days after a state operating license is issued or renewed.

(3) A secure transporter shall show proof of auto insurance, vehicle registration, and registration as a commercial motor vehicle, as applicable, for any transporting vehicles used to transport marihuana product as required by the act and these rules.

#### R 333.212 Capitalization requirements.

Rule 12. (1) An applicant shall disclose the sources and total amount of capitalization to operate and maintain a proposed marihuana facility.

(2) The total amounts of capitalization based on the type of marihuana facility specified in the application for a state operating license are as follows:

(a) Grower: Class A - \$150,000.00.

(b) Grower: Class B - \$300,000.00.

(c) Grower: Class C - \$500,000.00.

(d) Processor: \$300,000.00.

(e) Provisioning Center: \$300,000.00.

(f) Secure Transporter: \$200,000.00.

(g) Safety Compliance Facility: \$200,000.00.

(3) An applicant shall provide proof to the department of the capitalization amounts specified in subrule (2)(a) to (g) of this rule from both of the following sources:



(a) Not less than 25% is in liquid assets to cover the initial expenses of operating and maintaining the proposed marihuana facility, as specified in the application. For purposes of this subdivision, liquid assets include assets easily convertible to cash, including, but not limited to, cash, certificates of deposit, 401(k) plans, stocks, and bonds.

(b) Proof of the remaining capitalization to cover the initial expenses of operating and maintaining the proposed marihuana facility may include, but is not limited to, additional liquid assets as described in subdivision (a) of this subrule or equity in real property, supplies, equipment, fixtures, or any other nonliquid asset.

(4) The applicant shall provide proof that there is no lien or encumbrance, except for a mortgage encumbering the real property, on the asset provided as a source of capitalization. For purposes of this subrule, if the encumbrance is a mortgage on the real property then the applicant shall disclose the value of the equity of the real property less any mortgage.

(5) The capitalization amounts and sources must be validated by Certified Public Accountant (CPA) attested financial statements. The applicant shall disclose any of the capitalization sources that are foreign and a foreign CPA or its equivalent shall attest to the validation, and a domestic CPA shall attest to that foreign validation.

#### R 333.213 Denial of issuance of license; additional reasons.

Rule 13. (1) If an applicant fails to comply with the act or these rules, a license may be denied by the department as provided under the act and these rules.

(2) In addition to the reasons for denial in the act, a license may be denied by the department as provided in the act and these rules for any of the following reasons:

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

(b) The applicant's proposed marihuana facility or marihuana facility is substantially different from the marihuana facility plan pursuant to R 333.209 and these rules.

(c) The department is unable to access the proposed marihuana facility for preclosure physical inspection or the applicant denied the department access to the proposed marihuana facility.

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

(e) The applicant failed to correct any deficiencies within the application in accordance with section 403 of the act, MCL 333.27403, and these rules.

(f) The applicant failed to satisfy the confirmation of compliance by a municipality in accordance with section 205 of the act, MCL 333.27205, and these rules.

(g) The applicant is operating a proposed marihuana facility or marihuana facility without a license after December 15, 2017, that would otherwise require a state operating license under the act and these rules. This subdivision does not apply to an applicant that applied no later than February 15, 2018, has a valid temporary operation attestation from the municipality in which the proposed marihuana facility is operating on file with the department, and is operating a proposed marihuana facility pursuant to the emergency rules filed October 1, 2018, while in effect, and any extension, if applicable.

#### R 333.214 Renewal of license.

Rule 14. (1) A license is issued for a 1-year period and is renewable annually. A licensee may apply to renew a license on a form established by the department. The licensee shall pay the regulatory assessment upon renewal. The state operating license may be renewed

if not less than 90 days before expiration of the license, the licensee has submitted the renewal form required by the department and the licensee pays the department for any additional background investigation charge assessed by the department under these rules. The department shall include on the renewal form, without limitation, a statement requesting renewal of the 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 department may require, related to the eligibility, suitability, and general fitness of the licensee to continue to hold the license for which renewal is requested under the act and these rules, including, without limitation, information regarding the identification, integrity, moral character, reputation, and relevant business experience, ability, and probity, and financial experience, ability, and responsibility of the licensee and each person required to be qualified for renewal of the license under the act and these rules. To the extent that the information has changed or not been previously reported, updated information on the marihuana facility.

(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 department of any change in information provided in its original license application and subsequent annual renewal form or forms previously filed, if applicable.

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

(i) A description of a violation, if applicable, of an ordinance or a zoning regulation adopted pursuant to section 205 of the act, MCL 333.27205, committed by the licensee, but only if the violation relates to activities licensed under the act, the Michigan medical marihuana act, or these rules.

(ii) Whether there has been a change to an ordinance or a zoning regulation adopted pursuant to section 205 of the act, MCL 333.27205, since the license was issued to the licensee and a description of the change.

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

(e) Other relevant information and documentation that the department may require to determine the licensee's eligibility, suitability, and qualification to have its license renewed under the licensing standards of the act and this part.

(2) If a license renewal application is not submitted by the license expiration date, the license may be renewed within 60 days after its expiration date upon submission of the required application, payment of the regulatory assessment under section 603 of the act, MCL 333.27603, and satisfaction of any renewal requirements. The licensee may continue to operate during the 60 days after the license expiration date if the licensee submits renewal application to the department and complies with the other requirements for renewal.

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

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

(5) The department may refuse to renew a state operating license and issue a notice of nonrenewal if the licensee fails to apply for renewal in accordance with section 402 of the act, MCL 333.27402 and this rule. In addition, the department may refuse to renew a state operating license and issue a notice of nonrenewal if the department determines, after reviewing the licensee's annual renewal form, that the license should not be renewed because the licensee's annual renewal form does not provide the information and documentation required by the department to determine that the licensee is eligible, qualified, and suitable to continue to be licensed and ready and able to continue conducting its marihuana facility operation in compliance with the act and these rules.

(6) A state operating licensee who is served with a notice of nonrenewal under this rule may request a hearing under these rules.

(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 department.

(8) A person who has not applied for 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.

#### R 333.215 Notification and reporting.

Rule 15. (1) Applicants and licensees have a continuing duty to provide the department with up-to-date contact information and shall notify the department in writing of any changes to the mailing addresses, phone numbers, electronic mail addresses, and other contact information they provide the department.

(2) Applicants and licensees shall report any changes to the marihuana facility operations that are required in R 333.231 to R 333.238 and as required in the act and these rules, as applicable.

(3) Applicants and licensees shall report material changes to the department before making a material change that may require prior authorization by the department. 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 department may determine that a new license and new inspection are required for the change of location.

(c) A description of a violation of an ordinance or a zoning regulation adopted pursuant to section 205 of the act, MCL 333.27205, committed by the licensee, but only if the violation relates to activities licensed under the act, the Michigan medical marihuana act, and these rules.

(d) The addition or removal of persons named in the application or disclosed.

(e) Change in entity name.

(f) Any attempted transfer, sale, or other conveyance of an interest in a license.

(g) Any change or modification to the marihuana facility for prelicensure or post-licensure that was not preinspected, inspected, or part of the marihuana facility plan or final inspection including, but not limited to, operational or method changes requiring inspection under these rules, additions or reductions in equipment or processors at a marihuana facility, increase or decrease in the size or capacity of the marihuana facility, alterations of ingress or egress, and changes that impact security, fire and building safety.

(4) An applicant or licensee shall notify the department within 1 business day of becoming aware of or should have been aware of all 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.

(c) Regulatory disciplinary action taken or determined against an applicant or licensee by this state or any other state, including any pending action.

(5) Failure to report material changes pursuant to subrule (3) of this rule or notifications under subrule (4) of this rule may result in sanctions or fines, or both.

R 333.216 Notifications of diversion, theft, loss, or criminal activity pertaining to marihuana product.

Rule 16. (1) A licensee and an applicant shall notify the department, state police, 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 facility.

(2) Failure to notify as required under subrule (1) of this rule may result in sanctions or fines, or both.

R 333.217 Inspection; investigation.

Rule 17. (1) The department shall do all of the following with respect to inspections and investigations of applicants, licensees, proposed marihuana facilities, and marihuana facility operations:

(a) Oversee and conduct inspections through its investigators, agents, auditors, or the state police of proposed marihuana facilities and marihuana facilities as provided in section 303 of the act, MCL 333.27303, to ensure compliance with the act and these rules.

(b) Investigate individuals employed by marihuana facilities.

(c) Inspect and examine marihuana facilities and proposed marihuana facilities.

(d) Inspect, examine, and audit records of the licensee.

(2) The department may at any time, through its investigators, agents, auditors, or the state police, without a warrant and without notice to the licensee, enter the proposed marihuana facility or marihuana facility, offices, or other places of business of a licensee, if evidence of compliance or noncompliance is likely to be found in accordance with the act and these rules.

(3) The department, through its investigators, agents, auditors, or the state police, 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.

(4) The department, through its investigators, agents, auditors, or the state police, may inspect, examine, and audit relevant records of the licensee. If a licensee fails to cooperate with an investigation, the department through its investigators, agents, auditors, or the state

police may impound, seize, assume physical control of, or summarily remove records from a proposed marihuana facility or marihuana facility.

(5) The department through its investigators, agents, auditors, or the state police may eject or exclude, or authorize the ejection or exclusion of, an individual from a proposed marihuana facility or marihuana facility if that individual violates the act, a final order, or these rules.

(6) The department through its investigators, agents, auditors, or the state police may take any reasonable or appropriate action to enforce the act and rules.

(7) 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.

(8) 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.

#### R 333.218 Persons subject to penalty; violations.

Rule 18. (1) If the department through its investigators, agents, auditors, or the state police during the physical site inspection determine violations of the act or these rules exist, the department 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.

(2) The department 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 department through its investigators, agents, auditors, or the state police while in the performance of their duties.

(3) If the department through its investigators, agents, auditors, or the state police determine a violation of the act or these rules exists, these violations must be cited in a format established by the department. After a notice of violation or fine, or both, is issued to a person, applicant, or licensee, the department may hold a compliance conference or a hearing if applicable as prescribed in the act and these rules.

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

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

#### R 333.219 Sanctions; fines.

Rule 19. (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) License denial.
- (b) Limitations on a license.
- (c) Fines.
- (d) Revocation, suspension, nonrenewal, or an administrative hold on a license.
- (e) Orders to cease operations.

(2) A violation of these rules, the act, the marihuana tracking act, or any ordinance adopted under section 205 of the act, MCL 333.27205, may result in 1 or more of the following:

- (a) A license may be denied, limited, revoked, or restricted.
  - (b) A licensee or an employee of a licensee may be removed.
  - (c) Civil fines of up to \$5,000.00 may be imposed against an individual.
  - (d) 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, these rules, or an order.
  - (e) Civil fines may be assessed for each day the licensee is not in compliance with 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 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 marihuana facility's operation as provided in the act or these rules.
- (4) A person operating without a state operating 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 attempted transfer, sale, or other conveyance of an interest in a license without prior approval are grounds for suspension or revocation of the license or for other sanction as provided in sections 406 and 409 of the act, MCL 333.27406 and MCL 333.27409, or these rules.
- (6) The department may impose any other remedies, sanctions, or penalties not inconsistent with the act or these rules.

#### R 333.220 Stacked license.

Rule 20. A grower that has already been issued a state operating license specified as a class C-1,500 marihuana plants may apply to stack a license at a marihuana facility specified in the state operating license. The grower shall be subject to payment of a separate regulatory assessment for each state operating license stacked and may be subject to any additional fees under R 333.208. In addition, the grower is subject to all requirements of the act and these rules.

#### R 333.221 Changes to licensed marihuana facility.

Rule 21. (1) Any change or modification to the marihuana facility after licensure is governed by the standards and procedures set forth in the act and these rules and any regulations adopted pursuant to the act. Any material change or modification to the marihuana facility must be approved by the department before the change or modification is made.

(2) Any change of a location of a marihuana facility after licensure requires a new license application under R 333.206 and R 333.207 and may include, but is not limited to, regulatory assessment or application fees, or both. A licensee shall produce written documentation from the municipality approving the proposed new marihuana facility location as indicated on the application form provided to the department and be in compliance with section 205 of the act, MCL 333.27205.

## PART 3. OPERATIONS

R 333.231 State operating licenses; licensees; operations; general.

Rule 31. (1) A state operating license and a stacked license as described in R 333.220 are limited to the scope of the state operating license issued for that type of marihuana facility that is located within the municipal boundaries connected with the license.

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

(a) Marihuana facilities shall be partitioned from any other marihuana facility, activity, business, or dwelling. Marihuana facilities shall not allow onsite or as part of the marihuana facility any of the following:

(i) Sale, consumption, or serving of food except for as provided in R 333.281.

(ii) Sale, consumption, or use of alcohol or tobacco products.

(iii) Consumption, use, or inhalation of a marihuana product.

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

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

(d) Access to the marihuana facility is restricted to the licensee; employees of the licensee; and, the department through its investigators, agents, auditors, or the state police. A provisioning center may grant access as provided in R 333.233(3) to registered qualifying patients and registered primary caregivers with valid registry cards to a dedicated point of sale area. A separate waiting area may be created for visitors not authorized to enter the marihuana facility. The licensee shall maintain a log tracking all visitors to a marihuana facility. The visitor log must be available at all times for inspection by the department through its investigators, agents, auditors, or the state police to determine compliance with the act and these rules.

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

(f) The marihuana facility must be at a fixed location. Mobile marihuana facilities 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 operating license issued under the act must be framed under a transparent material and prominently displayed in the marihuana facility.

(3) A marihuana facility must comply with any other operational measures requested by the department that are not inconsistent with the act and these rules.

R 333.232 Operation at same location.

Rule 32. (1) A licensee that has any combination of state operating licenses may operate separate marihuana facilities at the same location. For purposes of this rule, a stacked license is considered a single marihuana facility.

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

(a) The department 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 type or number of marihuana facilities under section 205 of the act, MCL 333.27205, or prohibits the operation at the same location.

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

(i) Apply for and be granted separate state operating licenses and pay a separate regulatory assessment for each state operating license.

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

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

(iv) Post the state operating 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 operating license at the same location that includes a licensed provisioning center shall have the entrance and exit to the licensed provisioning center marihuana facility and entire inventory physically separated from any of the other licensed marihuana facility or facilities so that individuals can clearly identify the retail entrance and exit.

#### R 333.233 Marihuana facilities; requirements.

Rule 33. (1) A grower shall operate a marihuana facility under either of the following conditions:

(a) The marihuana facility operations are within a building that meets the security requirements and passes the inspections in these rules and has a building permit pursuant to R 333.234 and these rules.

(b) The marihuana facility operations are within a building, except that cultivation may occur in an outdoor area, and 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 R 333.234 and these rules.

(2) A secure transporter shall have a primary place of business as its marihuana facility that is operating in a municipality that has adopted an ordinance that meets the requirements of section 205 of the act, MCL 333.27205, and these rules and its marihuana facility must comply with the requirements prescribed by the act and these rules. A secure transporter shall hold a separate license for every marihuana facility location where a



marihuana product is stored. A secure transporter may travel through any municipality to transport a marihuana product. A secure transporter shall comply with all of the following:

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

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

(c) A 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 secure transporter of marihuana product from separate marihuana facilities shall not commingle 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 secure transporter transports money associated with the purchase or sale of marihuana product between facilities, the 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 secure transporter shall log and track all handling of money associated with the purchase or sale of marihuana between facilities. These records must be maintained and made available to the department upon request.

(e) A secure transporter shall have a route plan and manifest available for inspection by the department through its investigators, agents, auditors, or the state police to determine compliance with the act and these rules. A copy of the route plan and manifest must be carried with the secure transporter during transport between marihuana facilities. A secure transporter is subject to administrative inspection by a law enforcement officer at any point during the transportation of marihuana product pursuant to the act or these rules. A 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 secure transporter shall follow the manifest. In cases of emergencies, the 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) The timeframe for the secure transporter to maintain custody of the marihuana product must not be more than 48 hours or by permission of the department on a case-by-case basis.

(h) A secure transporter shall identify and record all vehicles with the department and have the required vehicle registration with the secretary of state as required under state law. A secure transporter's vehicles are subject to inspection at any time by the department, through its investigators, agents, auditors, or the state police to determine compliance with the act or these rules.

(3) A provisioning center 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 provisioning center shall keep marihuana products behind a counter or other barrier to ensure that a registered qualifying patient or registered primary caregiver does not have direct access to the marihuana products. The sale or transfer of a marihuana product to a registered qualifying patient who is under the age of 18 must be made by the provisioning center to the registered qualifying patient's parent or legal guardian who serves as the registered qualifying patient's registered primary caregiver.

(4) A marihuana facility 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.

(5) A marihuana facility shall enter in the statewide monitoring system all transactions including, but not limited to, current inventory. These records must be maintained and made available to the department upon request.

#### R 333.234 Building and fire safety.

Rule 34. (1) An applicant's proposed marihuana facility and a licensee's marihuana facility 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 prelicensure and postlicensure 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 facility 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 facility or marihuana facility 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 facility or marihuana facility as provided in the act and these rules.

(4) An applicant or licensee shall not operate a marihuana facility unless the proposed marihuana facility or marihuana facility has passed the prelicensure fire safety inspection by the BFS. The state fire marshal, or his or her authorized designee, may conduct prelicensure and post-licensure inspections of a marihuana facility. 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 facilities 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 facilities 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 facility, 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 R 333.203. 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 facility.

(c) Processors, growers, and safety compliance facilities 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, growers and processors shall also comply with all of the following:

(a) Permit the department or its authorized agents, or state fire marshal or his or her authorized designee, to enter and inspect a grower and processor marihuana facility 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 facility.

(ii) Changes in occupancy.

(iii) Material changes to a new or existing grower or processor facility including changes made precensure 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 facility 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 facilities that have exhaust systems must comply with the NFPA 1 and the Michigan mechanical code, R 408.30901 to R 408.30998.

R 333.235 Security measures; required plan; video surveillance system.

Rule 35. (1) An applicant for a license to operate a proposed marihuana facility 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 facility, 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 at the marihuana facility.

(3) A licensee shall securely lock the marihuana facility, 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.

(4) A licensee shall maintain an alarm system at the marihuana facility. Upon request, a licensee shall make available to the department 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 facility.

(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 facilities at the same location if applicable, including any transfers between marihuana facilities.

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

(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 facility 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 cameras that record continuously 24 hours per day and recorded images must clearly and accurately display the time and date.

(9) 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.

(10) A licensee shall keep surveillance recordings for a minimum of 30 days, except in instances of investigation or inspection by the department, through its investigators, agents, auditors, or the state police, in which case the licensee shall retain the recordings until the time as the department notifies the licensee that the recordings may be destroyed.

(11) Surveillance recordings of the licensee are subject to inspection by the department, through its investigators, agents, auditors, or the state police, and must be kept in a manner that allows the department to view and obtain copies of the recordings at the marihuana facility immediately upon request. The licensee shall also send or otherwise provide copies of the recordings to the department upon request within the time specified by the department.

(12) 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.

(13) 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.

#### R 333.236 Prohibitions.

Rule 36. (1) Marihuana products not identified and recorded in the statewide monitoring system pursuant to the act, the marihuana tracking act, or these rules must not be at a marihuana facility. A licensee shall not transfer or sell a marihuana product that is not identified in the statewide monitoring system pursuant to the act or these rules.

(2) Any marihuana product without a batch number or identification tag or label pursuant to these rules must not be at a marihuana facility. 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 violation of these rules may result in sanctions or fines, or both, in accordance with the act or these rules.

#### R 333.237 Marihuana product destruction and waste management.

Rule 37. (1) A marihuana product that is to be destroyed or is considered waste must be rendered into an unusable and unrecognizable form through grinding and incorporating 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) Other wastes approved by the department that will render the marihuana product waste unusable and unrecognizable.

(h) Soil.

(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 department 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 facility.
- (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 department 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.

#### R 333.238 Storage of marihuana product.

Rule 38. (1) All inventories of marihuana products must be stored at a marihuana facility in a secured limited access area or restricted access area and must be identified and tracked consistently in the statewide monitoring system under the act, the marihuana tracking act, or these rules.

(2) All containers used to store marihuana products for transfer or sale between marihuana facilities 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, the marihuana tracking 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) Edible marihuana products must be stored in compliance with current good manufacturing practice in manufacturing, packing, or holding human food, 21 CFR part 110. Edible marihuana products not in final packaging must be stored separately from other types of marihuana product in compliance with these rules.

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

(7) A 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.

#### PART 4. TESTING

R 333.245 Plant batches; testing procedures.

Rule 45. (1) A 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 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 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 the act and these rules. A grower shall ensure that identification information is recorded in the statewide monitoring system in accordance with the act, the marihuana tracking act, and 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 safety compliance facility. A grower shall quarantine a harvest batch from other plants or batches that has 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 grower facility, a sample of the harvest batch must be tested by a licensed safety compliance facility as provided in R 333.247 and R 333.248. 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 R 333.246(4). A failed test for pesticides cannot be remediated. A marihuana product that fails testing and is remediated may only be sold or transferred once approved by the department.

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

(7) A 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 the act, the marihuana tracking act, and these rules.

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

(9) After a package is created by a processor of the marihuana product in its final state, the processor shall have the sample tested pursuant to R 333.247 and R 333.248. The processor shall not transfer or sell a final package until after test results indicate a passed test.

(10) After a provisioning center receives or purchases a marihuana product in the statewide monitoring system, a licensee may sell or transfer marihuana product only to a registered qualifying patient or registered primary caregiver 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 safety compliance facility and receive passing test results before sale or transfer.

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

#### R 333.246 Retesting.

Rule 46. (1) A safety compliance facility may test or retest a sample to validate the results of a failed safety test except as indicated under subrule (2) 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 facility that provided the sample is responsible for all costs involved in a retest.

(2) A failed test sample must pass 2 separate retests consecutively to be eligible to proceed to sale or transfer. 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.

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

(a) The marihuana product is in a final package.

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

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



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

R 333.247 Testing; safety compliance facility.

Rule 47. (1) A safety compliance facility shall use analytical testing methodologies for the required safety tests in subrule (2) of this rule that may be monitored on an ongoing basis by the department or a third party, including either of the following:

(a) The most current version of the Cannabis Inflorescence: Standards of Identity, Analysis, and Quality Control monograph published by the American Herbal Pharmacopoeia and adopted by reference pursuant to R 333.203.

(b) An alternative testing methodology approved by the department and validated by an independent third party that the methodology followed by the laboratory produces scientifically accurate results for each safety test it conducts.

(2) A safety compliance facility shall conduct all of the required safety tests specified in subdivisions (a) to (h) of this subrule on the marijuana product that is part of the harvest batch as specified in R 333.245. After the testing on the harvest batch is completed, the department may publish a guide indicating which of the following safety tests are required based on product type when the marijuana product has changed form:

(a) Potency analysis that includes all of the following:

(i) Tetrahydrocannabinol level.

(ii) Tetrahydrocannabinol acid level.

(iii) Cannabidiol level.

(iv) Cannabidiol acid levels.

(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 solvent levels. The department may publish a list of required residual solvents and the action limits or levels.

(g) Water activity including moisture content.

(h) Mycotoxin screening if requested by the department.

(3) Except as otherwise provided, if a sample collected pursuant to R 333.248 or provided to a safety compliance facility pursuant to these rules does not pass the required safety tests for water activity, microbial screening, foreign matter inspection, heavy metals, chemical residue, and residual solvents levels based on these rules, the marijuana facility 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 the act, marijuana tracking act, and these rules.

(4) For the purposes of the microbial screening and foreign matter inspection, a sample provided to a safety compliance facility pursuant to this rule is deemed to have passed if it satisfies the standards in the Cannabis Inflorescence: Standards of Identity, Analysis, and Quality Control monograph adopted by reference pursuant to R 333.203.

(5) For the purposes of the mycotoxin testing, the department may request this testing. A marihuana sample with a value that exceeds the published acceptable level is considered to be a failed sample. A marihuana sample that is below the acceptable value is considered to be a passing sample.

(6) For the purposes of the heavy metal testing, the department shall publish a list of acceptable levels. A marihuana sample with a value that exceeds the published acceptable level is considered to be a failed sample. A marihuana sample that is below the acceptable value is considered to be a passing sample.

(7) For the purposes of the residual solvent test, the department shall publish a list of acceptable levels. A marihuana sample with a value that exceeds the published acceptable level is considered to be a failed sample. A marihuana sample that is below the acceptable value is considered to be a passing sample.

(8) For the purposes of the chemical residue test, the department shall publish a list of acceptable levels. A marihuana sample with a value that exceeds the published acceptable level is considered to be a failed sample. A marihuana sample that is below the acceptable value is considered to be a passing sample.

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

(a) Become provisionally accredited under subdivision (b) of this subrule within 6 months after the issuance of a license. A safety compliance facility may be ordered to cease operations if provisional accreditation is not received within 6 months.

(b) Become fully accredited to the International Organization for Standardization (ISO), ISO/IEC 17025:2005 or 17025:2017 by an International Laboratory Accreditation Cooperation (ILAC) recognized accreditation body or by an entity approved by the department within 1 year after the date the license is issued and agree to have the inspections and reports of the International Organization for Standardization made available to the department.

(c) Maintain internal standard operating procedures.

(d) Maintain a quality control and quality assurance program that conforms to ISO/IEC 17025:2005 or 17025:2017 standards.

(10) The department shall establish a proficiency testing program and designate safety compliance facility participation. A 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 safety compliance facility shall successfully analyze a set of proficiency testing samples not less than annually. A safety compliance facility shall submit copies of annual proficiency testing to the department for review. 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.

(11) The department shall publish a list of approved chemical residue active ingredients for 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.

(12) The department shall publish a list of banned chemical residue active ingredients, the list for acceptable action limits must meet those set forth in legal regulations for tolerances and exemptions for chemical residues in food, 40 CFR part 180, subpart C, or

the federal insecticide fungicide, and rodenticide act, 7 USC 136 to 136y, whichever is more stringent.

(13) If a sample provided to a safety compliance facility pursuant to this rule and R 333.248 passes the safety tests required under subrule (2) of this rule, the safety compliance facility shall enter the information in the statewide monitoring system of passed test results. 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.

(14) A safety compliance facility shall enter the results into the statewide monitoring system and file with the department an electronic copy of each safety compliance facility test result for any batch that does not pass the required tests while it transmits those results to the facility that provided the sample. In addition, a safety compliance facility shall maintain the test results and make them available to the department upon request.

(15) The department shall take immediate disciplinary action against any 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 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 safety compliance facility shall comply with random quality assurance compliance checks upon the request of the department. The department or its authorized agents may collect a random sample of a marijuana product from a safety compliance facility or designate another safety compliance facility to collect a random sample of a marijuana product in a secure manner to test that sample for compliance pursuant to this rule.

(18) A safety compliance facility may perform terpene analysis on a marijuana product using an ISO accredited method. There are no established safety standards for this analysis.

(19) A safety compliance facility shall comply with the Cannabis Inflorescence: Standards of Identity, Analysis, and Quality Control monograph published by the American Herbal Pharmacopoeia, which is adopted by reference in R 333.203, unless these rules provide otherwise.

#### R 333.248 Sampling.

Rule 48. (1) A safety compliance facility shall test samples as provided in the act, the Michigan medical marijuana act, and these rules.

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

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

(b) The 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 batch. The maximum batch size must be 15 pounds. The department may publish recommendations for this subdivision based on the type of marijuana product being tested.

(c) The safety compliance facility shall enter in the statewide monitoring system the marihuana product sample that was collected from a grower, processor, or provisioning center, including the date and time the marihuana product is collected, transferred, tested, and recorded.

(d) If a testing sample is collected from a marihuana facility for testing in the statewide monitoring system, that marihuana facility shall quarantine the marihuana product that is undergoing the testing from any other marihuana product at the marihuana facility. The marihuana facility 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.

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

(f) A 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.

#### PART 5: MARIHUANA-INFUSED PRODUCTS AND EDIBLE MARIHUANA PRODUCT

R 333.261 Requirements and restrictions on marihuana-infused products; edible marihuana product.

Rule 61. (1) A processor shall prepackage 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 delta-9 tetrahydrocannabinol (THC) potency between the actual results and the intended serving is to be + or – 15%. The department shall publish guidelines for a processor to follow to verify the marihuana-infused product is homogeneous.

(3) A processor of marihuana-infused products shall list and record the THC level of marihuana-infused products, as provided in R 333.262, in the statewide monitoring system and indicate the THC level 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 department, or other state agency, if applicable, must be immediately pulled from production by the 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 processor shall label any marihuana-infused product it produces or packages with all of the following:

(a) The name and address of the marihuana facility 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 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, Title 21, Part 101, 21 CFR part 101 (2017).

(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 facility."

(6) A 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 employee training 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 chapter 27.

(ii) Safe Quality Food (SQF), 7.2 edition adopted by reference pursuant to R 333.203.

(iii) The International Organization for Standardization (ISO), ISO 22000/ISO/TS 22002-1 adopted by reference pursuant to R 333.203.

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

(7) A 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 resealable, opaque, child-resistant packages or containers that meet the effectiveness specifications outlined in 16 CFR 1700.15.

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

(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.

R 333.262 Maximum THC levels for marihuana-infused products.

Rule 62. Marihuana-infused products processed, sold, or transferred through provisioning centers must not exceed the maximum THC levels as established by the department. For the purposes of maximum THC levels for marihuana-infused products, the department shall publish a list of maximum THC concentration and serving size limits.

## PART 6: SALE OR TRANSFER

R 333.271 Tracking identification; labeling requirements; general.

Rule 71. (1) All marihuana products sold or transferred between marihuana facilities 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 department, the act, and these rules.

(2) To ensure access to safe sources of marihuana products, the department, if alerted in the statewide monitoring system, may recall any marihuana products, issue safety warnings, and require a marihuana facility to provide information material or notifications to a registered qualifying patient or registered primary caregiver at the point of sale.

R 333.272 Marihuana plant; tracking requirements.

Rule 72. 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.

R 333.273 Marihuana product sale or transfer; labeling and packaging requirements.

Rule 73. (1) Before a marihuana product is sold or transferred to or by a provisioning center, 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 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 license number including business or trade name of licensee that packaged the product, if different from the 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 cannabidiol (CBD).
- (h) Activation time expressed in words or through a pictogram.
- (i) Name of the 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 department's website.
- (k) A warning that states all the following:
  - (i) "For use by registered qualifying patients 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 provisioning center must comply with R 333.261(7).

R 333.274 Sale or transfer; provisioning centers.

Rule 74. (1) A provisioning center may sell or transfer a marihuana product to a registered qualifying patient or a registered primary caregiver if all of the following are met:

- (a) The licensee verifies with the statewide monitoring system that the registered qualifying patient or a registered primary caregiver holds a valid, current, unexpired, and unrevoked registry identification card.
- (b) The licensee confirms that the registered qualifying patient or the registered primary caregiver presented his or her valid driver license or government-issued identification card that bears a photographic image of the qualifying patient or primary caregiver.
- (c) The licensee determines, if completed, any transfer or sale will not exceed the purchasing limit prescribed in R 333.275.
- (d) 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 R 333.273.

(2) A provisioning center may sell or transfer a marihuana product to a visiting qualifying patient if all of the following are met:

- (a) The licensee verifies that the visiting qualifying patient has a valid unexpired medical marihuana registry card, or its equivalent issued in another state, district, territory, commonwealth, or insular possession of the United States that allows the medical use of marihuana.

(b) The licensee confirms that the visiting qualifying patient presented his or her valid driver license or government-issued identification card that bears a photographic image of the visiting qualifying patient.

(c) The licensee determines, if completed, that any transfer or sale will not exceed the purchasing limit prescribed in R 333.275.

(d) 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 R 333.273.

(e) As used in this subrule, “visiting qualifying patient” means that term as defined in section 3 of the Michigan medical marihuana act, 2008 IL 1, MCL 333.26423.

(3) A provisioning center shall enter all transactions, current inventory, and other information required by these rules in the statewide monitoring system in compliance with the act, marihuana tracking act, and these rules. The provisioning center shall maintain appropriate records of all sales or transfers under the act and these rules and make them available to the department through its investigators, agents, auditors, or the state police upon request.

R 333.275 Daily purchasing limits; monthly purchasing limits; provisioning center.

Rule 75. (1) Before the sale or transfer of marihuana product to a registered qualifying patient or registered primary caregiver, the licensee shall verify in the statewide monitoring system that the sale or transfer does not exceed either of the daily purchasing limits as follows:

(a) For a registered qualifying patient, an amount of marihuana product that does not, in total, exceed 2.5 ounces per day.

(b) For a registered primary caregiver, an amount of marihuana product that does not, in total, exceed 2.5 ounces per day for each registered qualifying patient with whom he or she is connected through the department’s registration process.

(2) Before the sale or transfer of marihuana product to a registered qualifying patient or registered primary caregiver, the licensee shall verify in the statewide monitoring system that the sale or transfer does not exceed the monthly purchasing limit of 10 ounces of marihuana product per month to a qualifying patient, either directly or through the qualifying patient’s registered primary caregiver.

R 333.276 Marketing and advertising restrictions.

Rule 76. (1) A marihuana facility 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 a marihuana product where the advertisement is visible to members of the public from any street, sidewalk, park, or other public place. 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 aged 17 years or younger. Any marihuana product advertised or marketed under this rule shall include the warnings listed in R 333.273(1)(k).



(4) A marihuana product must be marketed or advertised as “medical marihuana” for use only by registered qualifying patients or registered primary caregivers.

(5) A marihuana product must not be marketed or advertised to minors aged 17 years or younger. Sponsorships targeted to members aged 17 years or younger are prohibited.

## PART 7: EMPLOYEES

### R 333.281 Employees; requirements.

Rule 81. (1) A licensee shall conduct a criminal history background check on any prospective employee before hiring that individual pursuant to section 405 of the act, MCL 333.27405. 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 department through its investigators, agents, auditors, or the state police.

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

(a) Have a policy in place that requires employees to report any new or pending charges or convictions. If an employee is charged or convicted for a controlled substance-related felony or any other felony, the licensee shall report it immediately to the department.

(b) 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.

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

(d) 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.

(e) Establish point of sale or transfer procedures for employees at provisioning centers performing any transfers or sales to registered qualifying patients and registered primary caregivers. 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.

(f) Screen prospective employees against a list of excluded employees based on a report or investigation maintained by the department.

(g) When a registered primary caregiver is hired as an employee of a grower, processor, or secure transporter, the licensee or the individual shall withdraw registration as a registered primary caregiver in a manner established by the department.

(h) 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 R. 333.233.

(3) If an individual is present at a marihuana facility or in a 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 department, through its investigators, agents, auditors, or the state police may take any action permitted under the act and these rules.

(4) Employee records are subject to inspection or examination by the department, through its investigators, agents, auditors, or the state police to determine compliance with the act or these rules.

(5) Consumption of food by employees is prohibited where marihuana product is stored, processed or packaged or where hazardous materials are used, handled or stored unless the marihuana facility has an employee designated area 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 facility. Trade services provided by individuals not normally engaged in the operation of a marihuana facility, 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.

R 333.282 Provisioning center home delivery employees; patient home delivery; limited circumstances.

Rule 82. (1) A provisioning center may employ an individual to engage in the home delivery of a marihuana product for sale or transfer to a registered qualifying patient.

(2) A provisioning center that employs an individual under subrule (1) of this rule shall establish procedures as specified in this rule to allow an employee of the provisioning center to deliver a marihuana product to a patient at the patient’s home address. All of the following procedures apply to the home delivery procedures established by a provisioning center:

(a) For the purposes of this rule only, a licensee may accept an online order of a marihuana product and payment for the order that will be delivered to the home of the registered qualifying patient as provided in this rule. An online order and payment must be received through a secure website that authenticates access by the registered qualifying patient. A provisioning center shall ensure that only an authenticated and verified registered qualifying patient may view on the provisioning center’s website a marihuana product that is available for home delivery.

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

(c) The home delivery employee meets the requirements in R 333.281 and is an employee of the provisioning center.

(d) Any other home delivery procedures required in this rule.

(e) The department has authorized the provisioning center licensee’s proposed registered qualifying patient home delivery procedure.

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

(a) The provisioning center shall verify that the sale or transfer to the registered qualifying patient is in accordance with R 333.274 and this rule. The home delivery

employee may take cash payment upon delivery and shall deliver the marijuana product only to the physical home address of the registered qualifying patient.

(b) The amount of marijuana product that may be delivered is limited to the daily and monthly purchase limits of the registered qualifying patient as provided in R 333.275.

(c) The provisioning center shall record all transactions in the statewide monitoring system as required in the act and these rules.

(d) An employee of the provisioning center shall make home deliveries only to a registered qualifying patient. A home delivery employee shall verify that the person taking delivery is the registered qualifying patient who has been recorded in the statewide monitoring system.

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

(4) A provisioning center shall maintain records of all of the following that are required to be made available to the department through its investigators, agents, auditors, or the state police upon request:

(a) Verification in the statewide monitoring system that the registered qualifying patient holds a valid, current, unexpired, and unrevoked registry identification card as required in R 333.274 and this rule.

(b) Confirmation that the registered qualifying patient presented his or her valid driver license or government-issued identification card that bears a photographic image of the patient as required in R 333.274 at the time of home delivery.

(c) Validation that the address for home delivery of a marijuana product is the home address of the registered qualifying patient.

(d) Documentation that the registered qualifying patient has consented to the home delivery of marijuana product. The consent must include an acknowledgement by the patient for the release of information necessary in fulfilling the home delivery.

(e) Maintenance of the following records for any motor vehicle used for home delivery and the making of the records available to the department through its investigators, agents, auditors, or the state police upon request: the vehicle's make, model, color, vehicle identification number, license plate number, and vehicle registration.

(5) A home delivery employee shall carry a copy of all of the following information and shall make these records available to the department through its investigators, agents, auditors, or the state police upon request:

(a) The employee identification number required under R 333.281.

(b) The provisioning center licensee license number.

(c) The address of the provisioning center licensee.

(d) Contact information of the provisioning center licensee.

(e) A copy of the provisioning center's home delivery log as required in subrule (10) of this rule.

(6) A home delivery employee shall have access to a secure form of communication with the provisioning center 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 provisioning center operation, a home delivery employee shall comply with all the following:

(a) During home delivery, the home delivery employee shall maintain a physical or electronic copy of the home delivery request and shall make the home delivery request available to the department through its investigators, agents, auditors, or the state police upon request.

(b) A home delivery employee shall not leave a marijuana product in an unattended motor vehicle unless the motor vehicle is locked and equipped with an active vehicle alarm system.

(c) A home delivery employee's vehicle must 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 provisioning center must be able to identify the geographic location of all home delivery vehicles and home delivery employees who are making home deliveries for the provisioning center and shall provide that information to the department through its investigators, agents, auditors, or the state police upon request.

(d) While making home deliveries, a home delivery employee shall travel only from the provisioning center's licensed marijuana facility to the delivery addresses and back to the provisioning center. A home delivery employee shall make no more than 10 registered qualifying patient home deliveries per trip before returning to the provisioning center. A home delivery employee shall not deviate from the home delivery limit or delivery path described in this subrule except in an emergency that is reported to the provisioning center and documented in the statewide monitoring system. A home delivery employee may refuel the vehicle during a stop that is reported and documented in the statewide monitoring system.

(e) While making home deliveries, a home delivery employee shall not carry a marijuana product valued in excess of the amount of the registered qualifying patient's delivery of the marijuana product at any time. A provisioning center shall have a procedure subject to department approval that establishes the amount of money a home delivery employee is allowed to have on his or her person at any 1 time during the home delivery process. All transactions must be completed in 1 business day and any money collected during the delivery process must be returned to the provisioning center.

(f) A home delivery employee of a provisioning center shall not be employed as a home delivery employee for multiple provisioning centers.

(8) A provisioning center shall ensure that home deliveries are completed in a timely and efficient manner as provided on the home delivery request and log. All home deliveries must occur within the business hours of the provisioning center. During a home delivery, a home delivery employee shall not store a marijuana product in a vehicle used for home deliveries other than in a secured compartment. Marijuana product for home delivery must be packaged separately per home delivery order and not commingled during the delivery and stored within a secured compartment that is clearly marked, latched or locked in a manner to keep all contents secured within.

(9) The process of home delivery begins when the delivery employee leaves the provisioning center's marijuana facility with the marijuana product for delivery. The process of home delivery ends when the delivery employee returns to the provisioning

center's licensed marihuana facility after delivering the marihuana product to the registered qualifying patient.

(10) A provisioning center shall maintain a record of each delivery of a marihuana product in a home delivery log, which may be a hard copy or electronic format, and make the home delivery log available to the department through its investigators, agents, auditors, or the state police upon request. For each delivery, the home delivery log must record all of the following:

(a) The date and time that the delivery began and ended.

(b) The name of the home 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 registered qualifying patient who accepted delivery.

(11) A provisioning center shall notify the department, state police, or local law enforcement of any theft, loss of marihuana product, or criminal activity as provided in R 333.216. A provisioning center shall report to the department and law enforcement, if applicable, any other event occurring during home delivery that violates the home delivery procedure as provided in this rule, including delivery vehicle accidents and diversion of marihuana product.

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

## PART 8. HEARINGS

### R 333.291 Definitions.

Rule 91. These rules use terms as defined in R 333.201, sections 101 and 102 of the act, MCL 333.27101 and 333.27102, and sections 1 to 3 of the APA, MCL 24.201 to 24.203. In addition, as used in this part:

(a) "Agency" means the department, bureau, board, 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 MAHS on behalf of the agency in accordance with MCL 333.27407(4) and 333.27302(i).

(d) "MAHS" means the Michigan administrative hearing system 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 medical marihuana licensing agency to provide an applicant an opportunity to present testimony and evidence to establish suitability for a license, in accordance with section 407(3) of the act, MCL 333.27407.

### R 333.292 Hearing procedures; scope and construction of rules.

Rule 92. (1) These rules apply to hearings under the jurisdiction of the agency involving the denial of a license or other licensing action pursuant to section 407 of the act, MCL 333.27407 or involving complaints brought by licensees pursuant to section 302 of the act, MCL 333.27302.

(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.

#### R 333.293 Hearing on license denial.

Rule 93. (1) An applicant denied a 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 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 matter must be considered by a quorum at a regular or emergency meeting properly noticed in accordance to the open meetings act, 1976 PA 267, MCL 15.261 to 15.275, at which the agency shall decide whether to affirm, reverse, or modify in whole or in part the denial of license.

(11) The agency's decision to affirm, reverse, or modify in whole or in part the denial of 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, in accordance with section 407(3) of the act, MCL 333.27407.

(12) The agency's decision to affirm, reverse, or modify in whole or in part the denial of license must be reduced to writing and served upon the applicant and agency within a reasonable time.

#### R 333.294 Review of licensing action.

Rule 94. (1) A licensee who has been notified of a license violation, or of the agency's intent to suspend, revoke, restrict, or refuse to renew a license or impose a fine, may be given an opportunity to show compliance with the requirements before the agency taking action as prescribed by the act or these rules.

(2) A licensee aggrieved by an action of the agency to suspend, revoke, restrict, or refuse to renew a 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 MAHS.

(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 the act.

(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 license, or to impose a fine, or summarily suspend a license.

#### R 333.295 Summary suspension.

Rule 95. (1) If the agency summarily suspends a license under section 407(2) of the act, MCL 333.27407, without notice or hearing upon a determination that the safety or health of patrons or employees is jeopardized by continuing a marijuana facility'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 facility'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 facility'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.

#### R 333.296 Complaint by licensee.

Rule 96. (1) A licensee may file a written complaint with the agency regarding any investigative procedures of this state that he or she believes to be unnecessarily disruptive of marihuana facility operations, as provided in section 302 of the act, MCL 333.27302.

(2) The agency may delegate to a subcommittee of the agency the authority to hear, review, or rule on a licensee complaint.

(3) The agency or its subcommittee may delegate authority to an administrative law judge to hear a licensee's complaint as a contested case in accordance with sections 71 to 79 of the APA, MCL 24.271 to 24.279, and the MAHS general hearing rules.

(4) As the complaining party, a licensee has the burden of proving by a preponderance of the evidence that the investigative procedures of this state unreasonably disrupted its marihuana facility operations.

#### R 333.297 Proposal for decision.

Rule 97. 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.

#### R 333.298 Final order.

Rule 98. (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.



R 333.299 Sunset.

Rule 99. These rules expire 2 years after the date of filing unless this provision is rescinded.