

**Michigan Office of Administrative Hearings and Rules**

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**AGENCY REPORT TO THE  
JOINT COMMITTEE ON ADMINISTRATIVE RULES (JCAR)**

**1. Agency Information**

**Agency name:**

Licensing and Regulatory Affairs

**Division/Bureau/Office:**

Marihuana Regulatory Agency

**Name of person completing this form:**

Jessica Fox

**Phone number of person completing this form:**

517-284-9294

**E-mail of person completing this form:**

FOXJ12@michigan.gov

**Name of Department Regulatory Affairs Officer reviewing this form:**

Elizabeth Arasim

**2. Rule Set Information**

**MOAHR assigned rule set number:**

2019-70 LR

**Title of proposed rule set:**

Marihuana Sampling and Testing

**3. Purpose for the proposed rules and background:**

To provide one, cohesive set of rules for regulating marihuana licenses for both adult use and medical marihuana in the State of Michigan.

**4. Summary of proposed rules:**

The proposed topic-based rule sets are intended to provide clarity/consistency to those working in both the medical and adult use markets. The rule sets provide for the implementation of a program to license medical/adult use marihuana businesses. The rule sets implement, administer, and enforce appropriate standards for marihuana businesses and associated equipment and establish regulations ensuring the safety, security, and integrity of the operation of marihuana businesses.

**5. List names of newspapers in which the notice of public hearing was published and publication dates:**

The Flint Journal (Pub: 1/28/20), The Grand Rapids Press (Pub: 1/28/20), The Mining Journal (Pub: 1/16/20)

Agency Report to JCAR-Page 2

**6. Date of publication of rules and notice of public hearing in Michigan Register:**

2/1/2020

**7. Date, time, and location of public hearing:**

2/12/2020 09:30 AM at Auditorium , 525 West Ottawa Street, Lansing, Michigan

**8. Provide the link the agency used to post the regulatory impact statement and cost-benefit analysis on its website:**

[https://dtmb.state.mi.us/ARS\\_Public/Transaction/RFRTransaction?TransactionID=14](https://dtmb.state.mi.us/ARS_Public/Transaction/RFRTransaction?TransactionID=14)

**9. List of the name and title of agency representative(s) attending public hearing:**

Executive Director Andrew Brisbo, Legal Analyst Kelly Kronner, Legal Analyst Jessica Fox, Legal Analyst Joshua Galicki

**10. Persons submitting comments of support:**

Jim LaPorte  
 Choice Laboratories  
 Michigan Coalition of Independent Cannabis Testing Laboratories  
 PSI Labs  
 Dykema Gossett, PLLC  
 North Coast Testing Laboratories of Michigan, LLC  
 Michigan Cannabis Industry Association  
 Cannabis Legal Group  
 Michigan Cannabis Manufacturers Association  
 Roma Thurin  
 Warner Norcross + Judd, LLP  
 Dragonfly Michigan

**11. Persons submitting comments of opposition:**

None.

**12. Identify any changes made to the proposed rules based on comments received during the public comment period:**

	<b>Name &amp; Organization</b>	<b>Comments made at public hearing</b>	<b>Written Comments</b>	<b>Agency Rationale for change</b>	<b>Rule number &amp; citation changed</b>
1	Jim LaPorte		Live resin is made from fresh frozen. Live resin reference should be to fresh frozen.	The agency agrees with comment. Changed “live resin” to “fresh frozen”.	420.303(6)

Agency Report to JCAR-Page 3

2	Choice Laboratories		“active ingredient” excludes industrial hemp and only determines active based upon THC level.	The agency agrees with this comment and has modified this section accordingly.	420.301(1)(b)
3	PSI Labs, LLC		The definition of final package is unclear.	The agency agrees that the definition needs clarification.	420.301(h)
4	Michigan Coalition of Independent Cannabis Testing Laboratories		The definition of final package is unclear.	The agency agrees that the definition needs clarification.	420.301(h)
5	Choice Laboratories		The definition of final package includes final package and final form.	The agency agrees and has modified the rule for clarity.	420.303(10)
6	Michigan Coalition of Independent Cannabis Testing Laboratories		It is difficult for a lab to obtain a truly representative sample without a batch limit.	The agency partially agrees and has modified the rule.	420.304(2)(b)

Agency Report to JCAR-Page 4

7	Dykema Gossett, PLLC		should be amended to state: "The agency may publish sample sizes for other marihuana products being tested, and may provide for a maximum harvest batch size." and also amend: The laboratory must have access to the entire batch for the purpose of sampling and shall ensure that the sample increments are taken from throughout the batch.	The agency agrees that the lab should ensure that sample increments are taken from throughout the batch.	420.304(2)(b)
8	North Coast Testing Laboratories of Michigan, LLC		Removing the batch size limit is a risk to patient health and safety.	The agency partially agrees and has modified the rule.	420.304(2)(b)
9	PSI Labs		Supports the older version of the rule that included a batch limit.	The agency partially agrees and has modified the rule.	420.304(2)(b)
10	Terrapin Michigan		Unlimited batch size leaves sample to large, there should be intervals.	The agency partially agrees and has modified the rule.	420.304(2)(b)
11	Michigan Cannabis Industry Association		It is better to maintain a batch limit because contamination can spread out in a heterogenous manner, and this provides better data.	The agency partially agrees and has modified the rule.	420.304(2)(b)

Agency Report to JCAR-Page 5

12	Great Lakes Cannabis Chamber of Commerce		Supports the older version of the rule that included a batch limit.	The agency partially agrees and has modified the rule.	420.304(2)(b)
13	Michigan Cannabis Manufacturers Association		“batch” is difficult to define without a limit.	The agency partially agrees and has modified the rule.	420.304(2)(b)
14	PSI Labs		It is unreasonably burdensome to require the filing of COAs as well as entry into METRC.	The agency agrees	420.305(12)
15	Michigan Coalition of Independent Cannabis Testing Laboratories		It is unreasonably burdensome to require the filing of COAs as well as entry into METRC.	The agency agrees	420.305(12)
16	Michigan Cannabis Industry Association		It is unreasonably burdensome to require the filing of COAs as well as entry into METRC.	The agency agrees	420.305(12)
17	PSI Labs		There is no scientific evidence to support the requirement that a lab that reported failed results cannot perform further testing.	The agency agrees to remove this portion.	420.306(2)
18	Michigan Coalition of Independent Cannabis Testing Laboratories		There is no scientific evidence to support the requirement that a lab that reported failed results cannot perform further testing.	The agency agrees to remove this portion.	420.306(2)

Agency Report to JCAR-Page 6

19	Michigan Cannabis Industry Association		There is no scientific evidence to support the requirement that a lab that reported failed results cannot perform further testing.	The agency agrees to remove this portion.	420.306(2)
20	Cannabis Legal Group		The provision includes the resolution and not the new bulletin and is confusing.	The agency agrees and removed this portion.	420.306(3)
21	Michigan Cannabis Industry Association		This is unduly restriction.	The agency agrees and removed this rule.	420.306(3)
22	Dykema Gossett, PLLC		Remediation should be allowed for chemical residue.	The agency agrees and removed this portion.	420.306(3)
23	Dykema Gossett, PLLC		Correction from “the” to “this”.	The agency agrees that the suggestion is correct.	420.304(2)(i)
24	Michigan Cannabis Manufacturers Association		GMP does not apply to growers, GACP should be used.	The agency agrees and has added a definition.	420.301(h)
25	Michigan Cannabis Manufacturers Association		GMP does not apply to growers, GACP should be used.	The agency agrees with this comment.	420.305(5)
26	Dykema Gossett, PLLC		Permission for sale of remediated product should not be required.	The agency agrees with this comment.	420.303(5)
27	Dykema Gossett, PLLC		METRC results should be relied upon not COAs.	The agency agrees with this comment.	420.304(2)(h)
28	Roma Thurin		More than 2 retests should be allowed.	The agency agrees with this comment.	420.306

Agency Report to JCAR-Page 7

29	Warner Norcross + Judd, LLP		The rule is unduly restrictive and repeated remediation and testing should be allowed.	The agency agrees with this comment.	420.306
30	Dragonfly Michigan		Restesting without destruction should be allowed with TYM.	The agency agrees with this comment.	420.306
31	Michigan Coalition of Independent Cannabis Testing Laboratories		This requirement puts undue pressure on staff.	The agency agrees with this comment.	420.305 (12/13)

**13.Date report completed:**

3/24/2020