



Ultra Health.

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Via Email

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-and-

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Re: Comments on Proposed Revisions to 16.8.2. NMAC

Dear Cannabis Control Division,

Please accept these public comments from New Mexico Top Organics-Ultra Health, Inc., and Ultra Health, LLC sent in relation to the proposed revisions to regulation 16.8.2 NMAC, ahead of the public hearing on November 13, 2023.

Generally, New Mexico Top Organics-Ultra Health, Inc., and Ultra Health, LLC (collectively, “Ultra Health”) approve of the Cannabis Control Division’s attempts introduce a culture of compliance into New Mexico’s cannabis market.

However, Ultra Health also urges the Cannabis Control Division (“the Division”) to remember that one of the principle goals of cannabis legalization and licensing is elimination of the illicit market. In fact, the Cannabis Regulation Act explicitly says this: the “committee shall advise the division on the development of rules pursuant to the Cannabis Regulation Act...[to] ensur[e] a regulated environment for commercial cannabis activity that does not impose unreasonable barriers that would perpetuate, rather than reduce and eliminate, the illicit market for cannabis.” NMSA 1978, Section 26-2C-3(G) (2021).

The Division must keep this goal in its mind at all times: ensure that the regulated environment it creates does not impose unreasonable barriers that would perpetuate, rather than eliminate, the illicit market.

16.8.2.22(A)(1)(I), 16.8.2.30(A)(1)(I), 16.8.2.36(A)(1)(m) NMAC

These proposed rules would require that applicants for an initial OR a renewed license submit to the Cannabis Control Division the “applicant’s employee information including, but not limited to names, identification photographs, employment history and demographic information.”

This proposed rule is not in accordance with the Cannabis Regulation, is outside of the Cannabis Control Division’s authority, will not improve the quality of licensee operations, will jeopardize privacy, will discourage worker employment in lawful cannabis operations, and is unworkable in practice. The Division should rescind this proposal and should not put this rule into effect.

The Regulation Is Impermissibly Vague

First, the proposed regulation is impermissibly vague. New Mexico does not allow such vague regulations. “It is well established that a penal statute or regulation which either forbids or requires the doing of an act in terms so vague that men of common intelligence must guess at its meaning and differ as to its application, lacks the first essential of due process of law.” *Bokum Resources Corp. v. New Mexico Water Quality Control Comm’n*, 1979-NMSC-090, ¶ 14. “The same strict rule of construction that is applied to statutes defining criminal action must be applied to rules enacted by an agency pursuant to statutory authority.” *Id.*, ¶ 13.

The proposed regulation says “employee information, including but not limited to names, photographs, employment history.” That universe of information could include copies of Social Security cards, copies of driver licenses, I-9 forms used by the U.S. Citizenship and Immigration Services agency, IRS W-4 forms, IRS W-2 forms, Family Medical Leave Act forms, medical records for workers’ compensation benefits, applications for employment, disciplinary records, payroll records, clock-in/clock-out time entries, and so on and so on.

Does “employee information” include all of the above, none of the above, or some of the above? Who knows, and if the applicant for a renewed license happens to guess incorrectly, the licensee has, under another of the Division’s proposed regulations, only 48 hours to supply the missing information. The Division essentially challenges licensees to a guessing game where the Division always wins.

Does “applicant’s employee information” include only those employees who are currently employed at the time of the renewal application? Or all employees who have come and gone throughout the previous year? Many licensees who grow outdoors use seasonal workers to supplement regular staff. Those seasonal workers may have already departed by the time the renewal window rolls around. Does the Division want the employment history of those season employees? What about the employment history of employees who quit or were terminated for cause?

Does “applicant’s employee information” include employees formally employed by a management company that works with the licensee? In New Mexico’s cannabis industry, many

licensees have agreements with management companies or staffing companies—those management companies or staffing companies actually employ the workers who work on a licensee’s plants or in a licensee’s stores. Does the regulation cover them too?

Does the Division truly expect, want, or need every licensee to annually submit Social Security cards, I-9 forms used by the U.S. Citizenship and Immigration Services agency, W-4s, W-2s, driver licenses, Family Medical Leave Act forms, medical records for workers’ compensation benefits, applications for work, disciplinary records, payroll records, clock-in/clock-out time entries, for every employee who has worked even one hour during the previous year? When one reads the proposed regulation broadly—“information including but not limited to...employment history”—the apparent meaning is that the Division does expect that to occur.

The Division cannot truly expect, want, or need every licensee to submit every piece of paper related to employment on an annual basis. Rather, the stunning overbreadth and vagueness of the proposed regulation suggest that the Division does not know what it wants, and it does not know what it needs.

It is blatantly obvious that the Division does not know what it really wants, does not know why it needs the information, and does not know what it plans to do with the information. If it really knew what it wanted, it would have used far, far more specific language that “employee information, including but not limited to...employment history.” Since it did not use such specific language, the proposed regulation is unacceptably vague. It would not pass standard judicial review in New Mexico and should therefore be rescinded.

The Division Impermissibly Reserves Ad Hoc Authority

A second reason why the proposed regulation is unlawful is that it impermissibly reserves to the Division the option to do further, ad-hoc rulemaking.

The phrasing of the proposed rule suggests that the Division will further clarify the rule later: that eventually, the Division will whittle down its list of required documents and publish that list on the Division website. In a few months, the Division will quietly place on its website the actual list of documents it wants.

That is not how rulemaking works. If the Division wishes to make a rule requiring submission of specific documents, it must properly do so via the rulemaking process. Until it does so, the Division cannot claim a regulatory mandate.

The Cannabis Regulation Act requires the Division to use the State Rules Act process. See § 26-2C-3(A): “The ‘cannabis control division’ is created in the department to administer the Cannabis Regulation Act and the licensing provisions of the Lynn and Erin Compassionate Use Act [Chapter 26, Article 2B NMSA 1978] and rules promulgated in accordance with those acts. Rules shall be adopted and promulgated as provided in the State Rules Act [Chapter 14, Article 4 NMSA 1978].”

The State Rules Act, NMSA 1978, Chapter 14, Article 4, describes the rulemaking process. Particularly, Sections 14-4-3 through 14-4-5.5 (2017) require that “[e]ach agency promulgating any rule shall” publish the proposed rule, provide notice of the rulemaking, allow public comment, provide an explanatory statement, and publish the final rule.

The State Rules Act defines “rule” as “any rule, regulation, or standard, including those that explicitly or implicitly implement or interpret a federal or state legal mandate or other applicable law and amendments thereto or repeals and renewals thereof, issued or promulgated by any agency and purporting to affect one or more agencies besides the agency issuing the rule or to affect persons not members or employees of the issuing agency, including affecting persons served by the agency.” § 14-4-2(F). However, an “order or decision or other document issued or promulgated in connection with the disposition of any case or agency decision upon a particular matter as applied to a specific set of facts shall not be deemed such a rule, nor shall it constitute specific adoption thereof by the agency.” *Id.*

An agency cannot reserve ad-hoc rulemaking power to itself. That is, it cannot reserve the option of further clarifying a rule outside the rulemaking process. In the case *Smith v. Bernalillo County Bd. Of County Commissioners*, 2005-NMSC-012, ¶ 33, the New Mexico Supreme Court warned that “[a]d hoc, standard-less regulation that depends on no more than a zoning official’s discretion would seriously erode basic freedoms...” Likewise, an ad hoc, standardless regulation that depends on the Cannabis Control Division’s discretion would seriously erode basic freedoms.

In the *Smith* case, the plaintiff wanted to build radio towers. The zoning ordinance in question did not expressly prohibit or restrict construction of the towers in that location, and regulations specifically exempted radio towers from height restrictions. *Id.*, ¶ 1. The plaintiff got his permits and began construction on his radio towers. At that point, neighbors complained, and County officials issued a stop-work notice. *Id.*, ¶ 7. The County Planning Commission then reviewed the project and revoked the permits because the “height of these towers is unreasonable.” *Id.*, ¶ 13.

In the Supreme Court, the plaintiff argued that it was improper for the County to deny his permits based on “reasonableness” rather than on a defined standard in ordinance and regulation. *Id.*, ¶ 16. Basing permitting decisions on “reasonableness” rather than defined standards would allow “arbitrary and ad hoc decision-making by governmental officials who are supposed to make decisions according to standards and precedent.” *Id.*

The Supreme Court agreed with the plaintiff on the basis that “we are reluctant to make a legal conclusion that ‘reasonableness’ can be read into the ordinance as a consideration.” *Id.*, ¶ 22. Basically, the Supreme Court was reluctant to allow ad-hoc rulemaking based on vague notions like “reasonableness,” when the ordinance said nothing about “reasonableness.”

More particularly, the Supreme Court “agree[d] with Plaintiff that this newly created reasonableness standard removes the essential characteristics of uniformity and predictability ... With a reasonableness requirement read into the ordinance, zoning officials would be invited to make highly discretionary decisions on a strictly ad hoc basis... Owners have a right to use

their property as they see fit, within the law, unless restricted by regulations that are clear, fair, and apply equally to all. Ad hoc, standard-less regulation that depends on no more than a zoning official's discretion would seriously erode basic freedoms..." *Id.*, ¶ 33.

These principles are directly applicable here. The Division obviously intends to provide a definitive list of the "employee information" it wants at some later point, outside of the rulemaking process. Doing so outside of the rulemaking process removes the essential characteristics of uniformity and predictability from the licensing and regulatory process.

The Division has invited itself to make highly discretionary decisions on a strictly ad hoc basis. Indeed, the Division could decide tomorrow that it wants I-9 forms but not Social Security cards, and then decide the next week that it does not want I-9 forms but wants time cards. Licensees would be burdened waiting for the next ad hoc pronouncement of what materials they must collect for a renewal application. Licensees need regulations that are clear, fair, and apply equally to all. Ad hoc, standard-less regulation that depends on no more than a website update seriously erodes trust between licensees and regulators.

When the Division promulgates a rule requiring "employee information" but does not establish the definition of "information" via proper rulemaking, the Division engages in ad hoc, arbitrary governance. The Cannabis Regulation Act requires rulemaking via the State Rules Act, rather than having the Division make highly discretionary decisions on a strictly ad hoc basis.

One of the essential purposes of rulemaking via the State Rules Act is to communicate expectations in the clearest, most direct manner possible. The proposed rule does not do that.

The Proposed Regulation Violates the Cannabis Regulation Act

A third reason why the proposed regulation should be abandoned is that the rule runs afoul of the Cannabis Regulation Act ("CRA"). In New Mexico, all administrative rules must satisfy a certain standard of review to survive. The standard of review is set out at Rule 1-074(R) NMRA: "(1) whether the agency acted fraudulently, arbitrarily, or capriciously; (2) whether based upon the whole record on review, the decision of the agency is not supported by substantial evidence; (3) whether the action of the agency was outside the scope of authority of the agency; or (4) whether the action of the agency was otherwise not in accordance with law."

A regulation not in accordance with law should be vacated "if the agency unreasonably or unlawfully misinterprets or misapplies the law." *Archuleta v. Santa Fe Police Dep't*, 2005 NMSC-006, ¶ 18, 137 N.M. 161. Courts "are not bound by an agency's interpretation of a statute, since it is a matter of law that is reviewed de novo." *Rio Grande Sierra Club v. N.M. Mining Comm'n*, 2003-NMSC-005, ¶ 17.

Furthermore, "[a]gencies are created by statute, and limited to the power and authority expressly granted or necessarily implied by those statutes." *Qwest Corp. v. N.M. Pub. Reg. Comm'n*, 2006-NMSC-042, ¶ 20, 140 N.M. 440. An agency violates separation of powers principles when it "goes beyond the existing New Mexico statutes or case law it is charged with administering and claims the authority to modify this existing law or to create new law on its

own.” *State ex rel. Sandel v. N.M. Pub. Util. Comm’n*, 1999-NMSC-019, ¶ 12, 127 N.M. 272. “An administrative agency has no power to create a rule or regulation that is not in harmony with its statutory authority.” *Rivas v. Bd. of Cosmetologists*, 1984-NMSC-076, ¶ 3, 101 N.M. 592.

The Cannabis Regulation Act establishes the extent and the limitations of the Division’s power. The Act allows the Division to promulgate rules regarding the “qualifications and procedures for licensure; **provided that qualifications shall be directly and demonstrably related to the operation** of the applicable cannabis establishment.” NMSA 1978, Section 26-2C-3(B)(1) (2021) (emphasis added).

The CRA requires licensing qualifications to be directly and demonstrably related to operations of a cannabis establishment. How does providing random employment documents to the Division directly and demonstrably relate to the operation of a cannabis establishment? It does not. If the Division enacts a licensure qualification or procedure that does not “directly and demonstrably relate to operations,” it will violate the Cannabis Regulation Act. Requiring license applicants to submit entirely random employment documents does not directly and demonstrably relate to cannabis operations, and therefore the Division violates the statute.

The statutory mandate that licensure qualifications directly and demonstrably relate to operations is meant to ensure that the Division does not chase precisely this type of wild goose: one that only increases costs and burdens for legal businesses while doing nothing to actually improve quality, efficiency, or compliance.

Now, if the CRA included some requirement that all employees of licensees must pass background checks, it would make some sense to forward licensee names and photographs to the Division. Indeed, in the medical-cannabis-only era, the Department of Health did mandate that all employees of medical cannabis producers undergo background checks. *See* 7.34.4.8(I) NMAC “(All persons associated with a licensed non-profit producer...shall consent to and undergo a nationwide and department of public safety (DPS) statewide criminal history screening background check. This includes...employees, contractors, and agents...Background check documentation shall be received by the medical cannabis program, and the individual shall be approved by the program, before the individual begins to provide any work”).

In contrast to the old medical cannabis regime, neither the Cannabis Regulation Act nor the Division’s current regulations contain any requirement that licensee *employees* undergo background checks.¹ Why, then, would the Division need to collect the names, photographs, and employment history of all licensee employees?

If the Division had actually specified useful employee information, its proposed regulation could comply with the statute. For example, hiring only workers eligible to work in the United States might be “directly and demonstrably related to the operation.” In that case, the Division could *specifically* ask for I-9 forms. For another example, hiring only workers who have attended a food handling course might be “directly and demonstrably related to the operation.” In that case, the Division could *specifically* ask for documents showing completion of the training.

¹ The Act and the regulations do require background checks for controlling persons.

But the Division has not done this. It has simply used a catch-all “employee information including, but not limited to.” The Division, in its stunning overbreadth, has constructively admitted that it does not know how the employee information directly and demonstrably relates to operations.

The statutory mandate to focus on qualifications “**directly and demonstrably related to the operation** of the applicable cannabis establishment” is also a reminder to the Division not to over-define its mission. The Division should focus on things unique to cannabis operations, like the use of track-and-trace software and the handling of large amounts of cash. However, employing people is not unique to cannabis operations. Most businesses employ workers, but most businesses do not have to submit all of their employment information to a government regulator.

Furthermore, other state agencies have far greater expertise in and resources to enforce employment laws. The Division can let the Department of Workforce Solutions deal with wage-and-hour problems. The Division can let the New Mexico Human Rights Bureau address instances of workplace discrimination. The Division can let the New Mexico Workers’ Compensation Administration monitor workplace injuries and do workplace safety audits.

The Division should focus on cannabis and those things that make cannabis businesses unique: those qualifications “**directly and demonstrably related to the operation** of the applicable cannabis establishment.” The Division should rely on employment-focused agencies to focus on employment issues.

The Proposed Regulation Does Not Serve Stated Goals of the Cannabis Regulation Act

The proposed regulation violates the Cannabis Regulation Act in another way: it directly antagonizes several of the stated goals of the Act.

Section 26-2C-3(B)(7) directs the Division to “promulgate rules” that “promote and encourage full participation in the cannabis industry” “by representatives of communities that have been disproportionately harmed by rates of arrest through the enforcement of cannabis prohibitions in law and policy, rural communities likely to be impacted by cannabis production and agricultural producers from economically disadvantaged communities.”

Frankly, if a person from a community disproportionately harmed by the Drug War knows that his or her name, picture, and employment history will be going to the Cannabis Control Division, that person is less likely to accept employment in the legal cannabis industry.

The Division must take a few moments and think through how its proposal will affect employees from communities that already have reason to distrust the government. Communities “that have been disproportionately harmed by rates of arrest through the enforcement of cannabis prohibitions in law and policy” may look at government agencies like the Cannabis Control Division and see only threats, intrusion, broken promises, disproportionate surveillance, and weaponization of data collection. Some of these communities may have painful memories of

when seemingly innocuous submission of personal information resulted in negative legal and even physical consequences.

The Legislature explicitly stated that it wanted the Division's rules to "promote and encourage full participation in the cannabis industry" by people from previously targeted communities. "Full participation" obviously includes employment. The Division's rules should encourage employment of people from communities disproportionately harmed by the Drug War. Requiring licensees to submit the names, photographs, and other information of employees does the exact opposite of encouraging employment.

Prospective employees and current employees of cannabis licensees will be wary of having their name, photograph, and other personal information placed into the hands of the Cannabis Control Division. Licensees will then face greater difficulty hiring employees and will lose even more ground to the illicit market.

Furthermore, Section 26-2C-3(B)(8) directs the Division to "promulgate rules" that "promote and encourage racial, ethnic, gender and geographic diversity and New Mexico residency among license applicants, licensees and cannabis industry employees." Again, prospective employees of cannabis licensees may feel targeted by the government because of their racial or ethnic background, and they may therefore be very reluctant to share their names, photographs, and other personal information with that government.

Now, although the Division should be promoting and encouraging racial, ethnic, gender and geographic diversity among industry employees, it **cannot and should not** institute any kind of quota. The Cannabis Regulation Act simply does not give the Division the authority to mandate quotas in licensee employment. This makes the Division's proposed collection of employees' "demographic information" problematic.

When collected on a voluntary basis, demographic information can be useful. When the collection is involuntary, it begins to appear dystopian and authoritarian.

The Regulation Is Arbitrary, Capricious, and Unsupported by Substantial Evidence

The proposed regulation must be rescinded because it is arbitrary, capricious, and unsupported by substantial evidence. As mentioned previously, New Mexico law requires all administrative rules to satisfy a certain standard of review to survive. The standard of review is set out at Rule 1-074(R) NMRA: "(1) whether the agency acted fraudulently, arbitrarily, or capriciously; (2) whether based upon the whole record on review, the decision of the agency is not supported by substantial evidence; (3) whether the action of the agency was outside the scope of authority of the agency; or (4) whether the action of the agency was otherwise not in accordance with law."

As to the arbitrary-and-capricious standard, an "agency's action is arbitrary and capricious if it provides no rational connection between the facts found and the choices made, or entirely omits consideration of relevant factors or important aspects of the problem at hand." *Colonias Dev. Council v. Rhino Env'tl. Servs. Inc.*, 2005-NMSC-024, ¶ 41, 138 N.M. 133. An

agency's ruling is arbitrary and capricious if the agency "failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view." *Rio Grande Chapter of the Sierra Club v. N.M. Mining Comm'n*, 2003-NMSC-005, ¶ 12, 133 N.M. 97 (internal quotation marks and citation omitted).

As to the unsupported-by-substantial evidence standard, "[s]ubstantial evidence is evidence that a reasonable mind would recognize as adequate to support the conclusions reached by a fact-finder." *N.M. Mining Assn. v. N.M. Water Quality Control Comm.*, 2007-NMCA-010, ¶ 30, 141 N.M. 41. "The reviewing court must also look to evidence that is contrary to the findings and then decide whether, on balance, the agency's decision was supported by substantial evidence." *Tenneco Oil Co. v. N.M. Water Quality Control Comm'n*, 1987-NMCA-153, ¶ 39, 107 N.M. 469. "When the agency's decision is supported by substantial evidence the reviewing court does not reweigh the evidence to reach a contrary result; however, when the evidence as a whole does not support the agency's decision, that decision cannot be upheld." *Id.*

Here, no rational connection exists between the facts found and the Division's choices. The Division has not provided any factual findings, but even if the Division had made some factual finding, no apparent connection exists between 1) a problem; and 2) the Division's proposed solution. What problem exists that is so pressing that every single cannabis licensee must submit to the Division the entire employment history of each employee? And how does the submission solve that problem?

The generality and lack of specificity in the regulation indicate its arbitrariness. If the Division had in mind a particular problem, then its solution would be particular as well: it would be a targeted regulation designed to solve a specific problem. The Division did not tailor the regulation to a particular objective, however. It simply threw a bunch of words at a wall and hoped they would stick.

Furthermore, where is the evidence that an indiscriminate collection of employment documents will 1) improve licensee compliance with cannabis-specific regulations and laws; 2) improve licensees' ability to produce quality products; 3) improve licensees' adherence to tax laws; 4) improve licensees' ability to operate economically and efficiently? In order to pass judicial review, the Division must be able to point to *evidence in the record* which shows that collection of a huge variety of employment documents will produce a concrete improvement in cannabis licensee operations. The Division has provided no such evidence, and it likely cannot, because its proposed regulation is not tailored toward solving any specific problem.

Another reason the regulation is arbitrary and capricious is that there is no rational triggering event. The regulation calls for *every single* licensee to submit such information, rather than calling for submission only from a licensee that has had a troubling on-site inspection.

The Division conducts on-site inspections of licensees regularly. By its own account, it conducted 295 inspections between April 2023 and August 2023² alone. See page from Cannabis

² Ultra Health believes this may be a typographical error and in fact refers to the period between April 2022 and August 2023.

Control Division “Compliance Update” presented to the Cannabis Regulatory Advisory Committee on September 29, 2023, attached here. The licensee inspection checklists are also attached here, and they show that inspectors do make inquiries into employment-related topics like security and trainings. These on-site inspections can help determine if the Division needs to pay more attention to a particular licensee.

It could conceivably make sense for the Division to request employment-related documents and records from a licensee when an on-site inspection of that licensee revealed a reason to suspect employment problems. Perhaps the on-site employees were not wearing the required identification badges. Perhaps the on-site employees were evasive in answering questions about their hiring process. Perhaps the licensee could not produce an employee handbook or any protocols or procedures. Perhaps the licensee has not been paying cannabis excise tax.

Any of these reasons would potentially justify further inquiry into the licensee’s employment practices and a request for document submission. The Division could then do a follow-up inspection based on the records submitted by the licensee. In that situation, a reasonable suspicion would justify the Division probing into employment records.

A rational regulation would say that if an on-site inspection indicates that the licensee may be committing violations of employment laws, the Division would 1) request employment documents only from that licensee; or 2) refer the matter to the Department of Workforce Solutions. That regulation would create a rational connection between the problem and the solution.

As written, however, there is no requirement of a “reasonable suspicion” trigger. The regulation treats each and every licensee like a criminal, with no support whatsoever.

Yet another indication of the regulation’s arbitrariness and capriciousness is that the Division gives no explanation of how it will use the information or what impact the information might have on a license application. The regulation simply directs a licensee to provide the information at the time the licensee applies for an initial or renewed license. Will the Division deny the license renewal based on something in the employment documents? Will the Division use the employment documents to verify that the licensee is paying correct payroll taxes? Will the Division tell the licensee that the licensee must hire more women or Hispanic people in order to receive the renewal?

The Division makes no indication that any licensing decision will be based upon the employee information. So why does the Division need it? The answer is that the Division does not need it. Unless the Division plans to base some kind of licensing decision on the employee information, the Division has no rational need for that information.

That the Division has no plan for using the information plainly indicates that the proposed regulation is irrational, arbitrary, capricious, and unsupported by substantial evidence.

The Regulation Does Nothing to Address Human Trafficking or Forced Labor

Ultra Health can readily see that part of the Division’s impetus for this proposed rule may be troubling media reports and lawsuit allegations about human trafficking and forced labor at illegal cannabis facilities. The Division’s concern is admirable, but the proposed regulation does nothing to discourage or stop those practices, while at the same time it only makes life *that much more difficult and that much more expensive for lawful businesses*.

Attached here is an article from Searchlight, a New Mexico investigative reporting organization, regarding allegations of human trafficking against an *illegal cannabis operation*. An illegal cannabis farm was operating within the boundaries of the Navajo Reservation and allegedly forced trafficked Chinese individuals to work on the farm. The person or persons who orchestrated the *illegal* operation in northwest New Mexico then obtained licenses from the Division and built a new cultivation facility in Torrance County.

The details of the Searchlight story are deeply troubling, but they do not suggest that human trafficking is common in the cannabis industry. Rather, the Searchlight story suggests one particularly depraved individual bears responsibility for isolated instances of trafficking. The Division cannot produce evidence that human trafficking is a common or widespread problem among cannabis licensees. Rather, the situation reported by Searchlight is an isolated incident.

The Division cannot respond to an isolated instance of human trafficking by burdening *legal* licensees with an extremely vague, overbroad mandate to submit “applicant’s employee information including, but not limited to names, identification photographs, employment history and demographic information.” The Division’s choice of weapon does not match the target. The target is very small and isolated—it needs a single shot from an expert sniper, but the Division has decided to carpet bomb the entire universe of licensees.

The Division’s approach entirely forgets that criminals do not typically respond to regulatory mandates. Criminals do not follow rules; that is what makes them criminals. The criminals who do abhorrent things like traffic human beings and use slave labor will not voluntarily send the names and photographs of their victims to the Division. Instead, those criminals will keep the names and identities of their victims secret. Meanwhile, the licensees who try to do the right thing and try to operate legally will have to devote many hours and many dollars to compiling all of their employment documentation to give to the Division—hours and dollars they could spend serving customers or doing productive work.

Making life difficult for the good guys—the licensees—does nothing to stop the bad guys. The bad guys do not care about rules and only respond to force, like when law enforcement raids an illegal growing facility and arrests those responsible for it.

On that point, the Division must again remember that its focus should be on cannabis. Other agencies and entities with more resources, more expertise, and more experience can and do focus on human trafficking and forced labor. Law enforcement, the Attorney General, the Department of Workforce Solutions, and many non-governmental organizations have entire programs dedicated to finding and eliminating human trafficking and forced labor.

The Division frequently bemoans its lack of funding and lack of resources, and yet it seemingly wishes to take on another unfunded mission: to stamp out bad labor practices. Frankly, that is not the Division's job. The Division's licensing staff already has too many tasks to do—a problem compounded by the dysfunction and abandonment of the online licensing database system. The Division should not foist more work on the licensing staff—especially meaningless work—until the Division has worked out a more efficient method of processing applications, such as a new or repaired online database system.

Human trafficking and forced labor are concerns in a wide variety of industries: construction, nail salons, “massage” parlors, non-cannabis agriculture, and so on. Where is the rule that requires nail salons to submit the names, photographs, and histories of their employees? Where is the rule that requires construction licensees to submit the names, photographs, and histories of their employees? Why are only lawful cannabis businesses targeted?

Why should lawful, licensed cannabis businesses face a unique burden of this kind when 1) they already face many other unique burdens, such as punitive income tax treatment and lack of access to banking services; and 2) industries with far more pervasive trafficking and labor violations do not face this burden?

Again, an “agency’s action is arbitrary and capricious if it provides no rational connection between the facts found and the choices made, or entirely omits consideration of relevant factors or important aspects of the problem at hand.” *Colonias Dev. Council v. Rhino Envtl. Servs. Inc.*, 2005-NMSC-024, ¶ 41, 138 N.M. 133. Even if the Division happened to make a factual finding that human trafficking is a concern in the cannabis industry, the regulation would still be arbitrary and capricious, because there is no rational connection between 1) human trafficking concerns; and 2) collection of employment records from *every single legal and licensed operator*.

The Regulation Bears No Connection To Current Disciplinary Actions

The proposed regulation bears no connection to the kinds of license violations that appear frequently in the Division's recent disciplinary actions, and this disconnect further indicates the proposal's arbitrariness and capriciousness.

The Division's recent disciplinary actions against licensees can provide valuable insight into regulatory trends: what kinds of violations are currently prevalent, which areas of compliance need more attention, and what kinds of problems have reached a breaking point?

The Division's recent disciplinary actions against licensees show that an alarming number of licensees cannot handle very basic aspects of regulatory compliance. The recent disciplinary actions do **not** show that licensees struggle with extremely esoteric details of employment law, and the actions do **not** show that current regulatory crises arise from employee management or employee identity.

On October 12, 2023, the Division issued nine Notices of Contemplated Action, all of which are attached here. These nine Notices of Contemplated Action contain allegations that the noticed licensees failed at very basic tasks required of cannabis licensees: the licensee refused to allow Division inspectors access to the facility; the entity was performing activities it was not licensed to do; the licensee had not obtained any compliance testing for its products; the licensee did not use the mandated track-and-trace computer system; the licensee did not keep sales data; the licensee did not keep inventory records; the licensee was not properly charging cannabis excise tax; the licensee had no policies or procedures; the licensee sold products with California labels; the licensee sold products that appeared to have originated in California; the licensee possessed more plants than the number for which it was licensed; the licensee did not use the BioTrack track-and-trace system to track plants; the licensee had no security measures; the licensee's facility had trash and pests in it; the licensee did not tag or track plants; the licensee's labels had incorrect or inappropriate information; the licensee lacked proper permits; the licensee lacked digital surveillance coverage.

The majority of the violations alleged in the October 12th Notices of Contemplated Action concern fundamental aspects of legal cannabis operations. The violations alleged do not hinge on sophisticated, nuanced readings of obscure laws. The violations alleged hinge on basic observations of licensees not complying with very obvious laws.

The October 12th Notices of Contemplated Action demonstrate the nature of the regulatory crisis faced by the Division. The crisis is not some very complex, complicated question of employee management. The crisis is that some licensees are behaving like illegal drug dealers.

One must ask, then—and a reviewing court will ask—what connection there is between these documented regulatory challenges and a proposed regulation that requires submission of reams of random employee information.

How does requiring *every single* licensee to submit *all* employee records address the problem of licensees not using the required track-and-trace software? How does requiring *every single* licensee to submit *all* employee records address the problem of licensees performing activities they are not licensed to do? How does requiring *every single* licensee to submit *all* employee records encourage and enable licensees to keep sales and inventory data?

The answer is that requiring *every single* licensee to submit *all* employee records does absolutely nothing to address the kinds of problems that, according to the Notices of Contemplated Action, currently plague New Mexico's cannabis licensees.

An “agency’s action is arbitrary and capricious if it provides no rational connection between the facts found and the choices made, or entirely omits consideration of relevant factors or important aspects of the problem at hand.” *Colonias Dev. Council v. Rhino Env’tl. Servs. Inc.*, 2005-NMSC-024, ¶ 41, 138 N.M. 133. The Division’s disciplinary actions provide a vivid description of the facts facing the Division. No rational connection exists between these facts and the regulatory choices the Division proposes to make.

The other regulatory crisis plaguing the cannabis industry relates to taxes. On October 25, 2023, the New Mexico Taxation and Revenue Department issued a press release regarding pervasive non-compliance with tax obligations. According to the press release, which is attached here, the Taxation and Revenue Department has spent several months investigating and determining which cannabis licensees had not properly paid cannabis excise tax or had “failed to file one or more tax returns.” The press release reports that, “[s]ince the effort began, 80 retailers have come into compliance on their tax filings.” However, “[m]ore than 100 license holders have not yet complied.”

Ultra Health cannot overstate the gravity of the Department’s announcement. 180 licensees did not properly pay cannabis excise tax or did not properly file necessary tax returns. Think about that number again: 180. This is not a handful of isolated incidents. This is a pervasive, widespread problem. The word “crisis” accurately describes the depth and breadth of noncompliance.

The Cannabis Control Division currently faces a regulatory crisis concerning tax compliance. A sizable proportion of cannabis licensees have not paid taxes. A rational agency would acknowledge this crisis and prioritize rulemaking in that area.

The available evidence indicates that the compliance area most in need of attention from the Division is taxation. However, the Division has not proposed any new regulations regarding taxation. Instead, the Division has proposed new regulations that have nothing to do with taxation. Ultra Health cannot understand, and a reviewing court will not understand, why the Division has failed to prioritize those aspects of compliance that are currently in crisis, but instead has prioritized vague burdens unrelated to those aspects of compliance that are currently in crisis.

The Division’s proposed regulations distract from the real regulatory crises. Those regulatory crises are well documented via Notices of Contemplated Action and Taxation and Revenue Department statements. The Division has in its possession clear indications of what its regulatory priorities should be. Instead of following the evidence, the Division has proposed a vague, burdensome regulation that has no connection to the situation on the ground.

The Regulation Is Unworkable in Practice

The Division should take a moment and seriously think about the practicalities of its proposed regulation. The Division’s online licensing database system does not work, and the Division has almost entirely abandoned it. So how will licensees be transmitting all of this “employment history?” Since the employment history documents will undoubtedly contain personally identifying information like addresses, birthdates, and Social Security numbers, transmission must be done by some secure method.

Over 300 people work in Ultra Health’s operations. How would a licensed entity transmit to the Division 300 photographs? Simply by email, since the Division has abandoned its online licensing system database? By physically printing out the 300 photographs? How does the Division prefer a licensee transmit employee personnel files for 300 people, some of whom have

been employed for seven or eight years? How does the Division wish a licensee to submit the clock-in-clock-out records for 300 employees for the previous 365 days?

And then, how will the Division's licensing staff actually have time to review these documents? Or use them in any way? Or keep them secure?

It is obvious that the Division did not completely review the practicalities of this regulation. If the Division had considered the practicalities, it would have proposed a much more limited, targeted, tailored regulation.

The Division Has Not Provided for Security or Confidentiality of Employee Records

Ultra Health is extremely concerned that the proposed regulation makes no provision for the security or confidentiality of employee information and/or employee records. Ultra Health as an employer has obligations to its employees surrounding the confidentiality and security of their personal information. Ultra Health would act extremely irresponsibly, as an employer, if it simply gave away employees' personal information without assurances for the security and confidentiality of that information.

The Division needs to consider and answer the following question: is "applicant's employee information including, but not limited to names, identification photographs, employment history and demographic information," discoverable under the Inspection of Public Records Act?

Unless the Division can identify an existing exemption to IPRA, it appears that all of a cannabis licensee's employee information would be discoverable. Anybody could make an IPRA request to the Division for "all of the employee information submitted to the Division by all Pecos Valley Production," and the Division would have to provide that information to the requester.

Would the Division redact personal identifiers like birthdates, addresses, and Social Security numbers? Would the Division include things like medical records that might be in an employee's employment history because of an on-the-job injury? Would the Division provide this information to a requester who may be a stalker of a cannabis industry worker?

Obviously the Division has given no thought to these extremely important questions. If it had given such thought, the proposed regulation would be far, far more narrowly tailored and specific, and it would have included specific provisions on what information is IPRA-able and what is exempt from IPRA.

The Division may have forgotten that it already had to backtrack on a license submission requirement because of security concerns. In the second half of 2021, the Division released its initial licensing regulations, and those initial regulations required applicants to submit a diagram of each licensed premise. See 2021 versions of 16.8.2 NMAC, attached here. The diagrams had to show entrances and exits, the location of security cameras, and where alarms were located.

The Division quickly realized that it had created a monster. The diagrams submitted to the Division by licensee applicants were discoverable via the Inspection of Public Records Act. Anybody could request the diagram of a particular licensed premise—or all licensed premises—and easily learn about the security features of that licensed premise. It was nothing short of a security nightmare.

The Division repealed the premises diagram submission requirement by emergency rule in January 2022. The mandate to submit highly sensitive information to the Division lasted only a few months.

That was simply about buildings. The Division's new proposal affects *people*. This proposed rule jeopardizes the security of *people* who work in the cannabis industry. The Division should recall the premises diagram debacle and immediately rescind the proposal.

The Division's utter disregard for employee security, privacy, and confidentiality is very alarming to Ultra Health. Ultra Health must be able to recruit good employees, and many potential employees will naturally be worried that their personal information could be handled irresponsibly when submitted to the Division.

The Division must give serious thought to the industry-wide impact of this rule. In this age of hacks and security breaches and identity theft, individuals have very good reason to be wary of personal data collection. This requirement will drive away responsible employees from legal cannabis employers. Employers will have more difficulty recruiting employees, and the industry will suffer widely because of it.

A Policy Decision of this Magnitude Should Be Made by the Legislature, Not the Division

The Division should abandon its proposed rule on the basis that a policy decision of this magnitude should be made by the Legislature, not the Division. Given that there are already hundreds of cannabis licensees, a rule that governs the employees of those licensees would impact thousands, and probably tens of thousands, of people. When the rights, privacy, and obligations of tens of thousands of people are in question, that is a legislative question.

Indeed, at the September 29, 2023 meeting of the Cannabis Regulatory Advisory Committee, Division Director Todd Stevens included an employment registry requirement among the list of legislative proposals for the upcoming legislative session. Mr. Stevens' inclusion of the "registry" idea as a legislative action indicates that this is a matter for the Legislature's decision, not the Division's.

16.8.2.22(A)(3), 16.8.2.30(A)(3), 16.8.2.36(A)(3) NMAC

These proposed rules would require that applicants for an initial OR a renewed license submit to the Cannabis Control Division "proof the applicant has acquired all applicable documentation from the local jurisdiction in which the licensed premise will be located including proof of business registration, proof of zoning approval, and proof of completion of a fire inspection."

This proposed rule is impermissibly vague, is not in accordance with the Cannabis Regulation, is outside of the Cannabis Control Division's authority, will not improve the quality of licensee operations, and is unworkable in practice. The Division should rescind this proposal and should not put this rule into effect.

The Regulation Is Impermissibly Vague

First, the proposed regulation is impermissibly vague. New Mexico does not allow such vague regulations. "It is well established that a penal statute or regulation which either forbids or requires the doing of an act in terms so vague that men of common intelligence must guess at its meaning and differ as to its application, lacks the first essential of due process of law." *Bokum Resources Corp. v. New Mexico Water Quality Control Comm'n*, 1979-NMSC-090, ¶ 14. "The same strict rule of construction that is applied to statutes defining criminal action must be applied to rules enacted by an agency pursuant to statutory authority." *Id.*, ¶ 13.

The proposed regulation, as written, requires applicants to submit "proof the applicant has acquired **all applicable documentation** from the local jurisdiction in which the licensed premise will be located **including** proof of business registration, proof of zoning approval, and proof of completion of a fire inspection" (emphasis added).

Who determines the list of "all applicable documentation" from each local jurisdiction? Who determines what are "all applicable" documents from Albuquerque? From Otero County? From Sunland Park? From Sandoval County? The list of "all applicable" documentation from each local jurisdiction will be different, because each county and municipality has its own process. For some, the list of "all applicable documentation" might be a business license AND a separate zoning approval AND a separate fire inspection. For some, the business license might be the only indication of zoning approval. For some, the fact that the municipality issued the business license is indication of zoning approval, but there is no other separate document.

And of course, as Ultra Health informed the Division in its last comments, some places in New Mexico do not even issue business licenses or zoning approvals. Otero County does not issue business licenses. See screenshots attached here. The City of Hobbs does not even have traditional "use" zones; it only has building codes. See screenshots attached here, stating, "the City of Hobbs does not have Zoning and the Title 16 dataset does not contain a Zoning Map or Zoning Data."

Would "all applicable documentation from the local jurisdiction" also include construction and building permits? Some local jurisdictions do their own construction permitting, instead of relying on the state's Construction Industries Division, so would a licensee need to submit the local construction documents to the Division? Does it include food permits from the City of Albuquerque, which now requires all cannabis retail premises to also have food sale permits? Does it include sign permits?

Oh, and how far back does the requirement go? Would the Division expect Ultra Health to submit the sign permit it received for the first medical dispensary it opened circa 2013? What

about a local construction “green tag” from 2015? Ultra Health is a legacy medical cannabis licensee and received its local approvals well before 2021.

It is blatantly obvious that the Division does not know what it wants, does not know why it needs the information, and does not know what it plans to do with the information. If it really knew what it wanted, it would have used far, far more specific language than “all applicable documentation from the local jurisdiction.” Since it did not use such specific language, the proposed regulation is unacceptably vague. It would not pass standard judicial review in New Mexico, and should therefore be rescinded.

Furthermore, who will be determining which documents are “applicable?” Will the Division staff determine the list of “all applicable documents” for each and every political subdivision in the state? Will the Division ask each political subdivision for a list of which documents that subdivision issues? Will the Division ask the state Fire Marshal for information on which local jurisdictions have staff to perform fire inspections? Or are licensees simply going to have to roll the dice in their application and hope that they have “all applicable documents?”

The Division cannot be so vague about “all applicable documentation” from local jurisdictions when there are hundreds of local jurisdictions in the state. It needs to provide a *definitive* list of the documents it wants.

Ultra Health also notes inconsistency between this proposed regulation and another recently proposed Division regulation. On July 31, 2023, the Division proposed a regulation that stated, “Prior to the division issuing a renewed license under the Cannabis Regulation Act, all licensees applying for renewal must provide the division with a copy of a valid **business license** for all premise(s) to be renewed under the license for which they are renewing” (emphasis added).

In July, the Division used the term “business license.” Now it uses the term “business registration.” The Division needs to decide which is the more accurate term and which one it means. The very fact that the Division has used two different terms indicates that it does not know really know what it wants, it does not know what the majority of political subdivisions do, and it has not sought input from political subdivisions.

The vagueness of the terminology and the vagueness of “all applicable documentation” indicate that this regulation is not ready for adoption. It will cause tremendous confusion among licensees and among the Division employees who must effectuate it.

The Regulation Is Arbitrary, Capricious, and Unsupported by Substantial Evidence

The proposed regulation must be rescinded because it is arbitrary, capricious, and unsupported by substantial evidence. In New Mexico, all administrative rules must meet a certain standard of review to survive. The standard of review is set out at Rule 1-074(R) NMRA: “(1) whether the agency acted fraudulently, arbitrarily, or capriciously; (2) whether based upon the whole record on review, the decision of the agency is not supported by substantial evidence; (3) whether the action of the agency was outside the scope of authority of the agency; or (4)

whether the action of the agency was otherwise not in accordance with law.”

As to the arbitrary-and-capricious standard, an “agency’s action is arbitrary and capricious if it provides no rational connection between the facts found and the choices made, or entirely omits consideration of relevant factors or important aspects of the problem at hand.” *Colonias Dev. Council v. Rhino Env’tl. Servs. Inc.*, 2005-NMSC-024, ¶ 41, 138 N.M. 133. An agency’s ruling is arbitrary and capricious if the agency “failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view.” *Rio Grande Chapter of the Sierra Club v. N.M. Mining Comm’n*, 2003-NMSC-005, ¶ 12, 133 N.M. 97 (internal quotation marks and citation omitted).

As to the unsupported-by-substantial evidence standard, “[s]ubstantial evidence is evidence that a reasonable mind would recognize as adequate to support the conclusions reached by a fact-finder.” *N.M. Mining Assn. v. N.M. Water Quality Control Comm.*, 2007-NMCA-010, ¶ 30, 141 N.M. 41. “The reviewing court must also look to evidence that is contrary to the findings and then decide whether, on balance, the agency’s decision was supported by substantial evidence.” *Tenneco Oil Co. v. N.M. Water Quality Control Comm’n*, 1987-NMCA-153, ¶ 39, 107 N.M. 469. “When the agency’s decision is supported by substantial evidence the reviewing court does not reweigh the evidence to reach a contrary result; however, when the evidence as a whole does not support the agency’s decision, that decision cannot be upheld.” *Id.*

Even if it made sense to require submission of a local business license for new applicants, it makes no sense for current licensees, because those current licensees should be receiving inspections from Division inspectors, and that inspection is an easy opportunity to check if a local business license hangs on the wall.

The inspection checklists used by the Division are attached here. It would be far easier for Division staff and for licensees to add one line to the inspection checklist—“licensee displays a local business license”—than to have every licensee inundate and overwhelm the licensing staff with yet more paperwork.

Furthermore, the proposed regulation has no rational connection to the actual operations of cannabis licensees,³ because the requirements to obtain a local business license vary widely and wildly across all the municipalities and counties of New Mexico.⁴ Some local governments require a fire inspection every year as part of a business license renewal, but most do not. Some local governments do not even require a fire inspection for initial issuance of a business license, because they do not have the fire marshal staff. Some local governments require submission of an applicant’s state tax identification number, but some do not. Some local governments conduct a fairly in-depth examination of zoning and neighboring uses, but some do not.

³ Recall that the Cannabis Regulation Act allows the Division to promulgate rules regarding the “qualifications and procedures for licensure; **provided that qualifications shall be directly and demonstrably related to the operation** of the applicable cannabis establishment.” NMSA 1978, Section 26-2C-3(B)(1) (2021)

⁴ Ultra Health operates sites in dozens of New Mexico locations, so it is knowledgeable about local business license requirements.

Because of the extremely wide variety of processes, the issuance of a local business license does not guarantee any particular level of inspection or evaluation by the local jurisdiction. Farmington does not evaluate the same things as Albuquerque does; Hobbs does not evaluate the same things as Santa Fe does. Some towns treat the business license as simply a fundraising opportunity; others treat the business license as an opportunity for a rigorous evaluation.

If the Division wants a uniform, objective standard to measure competence and compliance, the local business license is not it. If the Division wants to ensure that a cannabis retail premise in Las Cruces follows all the same rules as a retail premise in Taos, it cannot depend on a local business license.

More importantly, a local business license does not say anything about regulatory matters of particular concern in the cannabis industry. Certain aspects of compliance are unique or are more important to cannabis licensees. Security is one such aspect: does the licensee have security cameras, alarms, bars on the windows, a safe room for storage of cannabis and cash? Municipalities simply will not check for those things in the course of issuing a business license. Even if a fire marshal does a fire inspection, the marshal will check for things like entrances, exits, emergency lights, and extinguishers; the marshal will not check for security measures. And if the local government does not require a periodic fire inspection, then no one from the local government may ever even step foot inside the premise.

Another aspect of compliance unique to the cannabis industry is use of track-and-trace software. Again, no local government will check on use of track-and-trace software. That is entirely outside of the local government's concern. Likewise, the local government will not check to see if a business license applicant has paid necessary Cannabis Excise Taxes.

A local business license has relevance only to a very few aspects of rule-following: can the business fill out a form, can the business pay \$50 a year for the license, is the cannabis business in the correct zone, and are there fire safety problems?

A local business license does not reach the core competencies of cannabis licensees. It is only through on-site, in-person inspections by Division staff that cannabis-specific compliance can be evaluated.

Plus, there will always be some reason why a particular local government cannot or will not issue a business license in a given year. Many smaller political subdivisions are doing the painstaking work of switching from paper systems to digital systems and face delays and backlogs. For example, Alamogordo is currently switching to a new system, and it has issued a letter stating, "The City of Alamogordo is in the process of converting to a new business registration program and will take a few months to complete the process. Therefore, the \$35 business registration fee due by January 31, 2023, will be waived, and your business registration will be automatically extended. However, a new business registration certificate will not be issued. If the State requires you to have a business registration certificate, we can issue a temporary certificate upon request" (see attached letter).

Between rural locations that do not issue business licenses and municipalities updating their technology, there will always be some complication that leads to a cannabis licensee being unable to obtain or renew the business license. Then, the Division will be thrust into the position of evaluating a licensee's excuse—is it a legitimate excuse because some particular local government is backlogged, or does not issue them, or had a computer system breakdown? The Division may end up creating more work for itself by taking on the task of sifting through local business license processes.

As the Division can see, local business licenses have very low usefulness but have a high potential for complications. The local business license is not useful for the task the Division needs to perform: measure, judge, and evaluate a cannabis licensee's competence and compliance. The local business license also bears a high risk of increasing the Division's workload, due to the sheer number of local governments and their ever-changing processes.

The Proposed Regulation Violates the Cannabis Regulation Act

A third reason why the proposed regulation should be abandoned is that the rule runs afoul of the Cannabis Regulation Act. New Mexico does not allow administrative agencies to create rules that 1) are outside the scope of the agency's authority; or 2) are not in accordance with the statute that authorizes the rules.

A regulation not in accordance with law should be vacated "if the agency unreasonably or unlawfully misinterprets or misapplies the law." *Archuleta v. Santa Fe Police Dep't*, 2005 NMSC-006, ¶ 18, 137 N.M. 161. Courts "are not bound by an agency's interpretation of a statute, since it is a matter of law that is reviewed de novo." *Rio Grande Sierra Club v. N.M. Mining Comm'n*, 2003-NMSC-005, ¶ 17.

Furthermore, "[a]gencies are created by statute, and limited to the power and authority expressly granted or necessarily implied by those statutes." *Qwest Corp. v. N.M. Pub. Reg. Comm'n*, 2006-NMSC-042, ¶ 20, 140 N.M. 440. An agency violates separation of powers principles when it "goes beyond the existing New Mexico statutes or case law it is charged with administering and claims the authority to modify this existing law or to create new law on its own." *State ex rel. Sandel v. N.M. Pub. Util. Comm'n*, 1999-NMSC-019, ¶ 12, 127 N.M. 272. "An administrative agency has no power to create a rule or regulation that is not in harmony with its statutory authority." *Rivas v. Bd. of Cosmetologists*, 1984-NMSC-076, ¶ 3, 101 N.M. 592.

The Cannabis Regulation Act directs the Division to promulgate rules about "qualifications and procedures for licensure; provided that qualifications shall be directly and demonstrably related to the operation of the applicable cannabis establishment." NMSA 1978, Section 26-2C-3(B)(1) (2021).

This statutory directive indicates that the core focus of the Division should be on qualifications "directly and demonstrably related" to cannabis-specific operations. The Division should focus on those factors that make a cannabis business unique and distinct from other businesses.

All businesses must obtain various approvals from local jurisdictions—not only business licenses, but building permits, construction permits, food service permits, sign permits, and so on. Cannabis businesses are not unique in that regard. Cannabis businesses are unique in aspects like security, use of track-and-trace systems, cash handling, age verification, and packaging and labeling.

The Cannabis Regulation Act recognizes this. That is why the Act goes on to specifically list the areas that “directly and demonstrably relate to the operation of the applicable cannabis establishment.” “(2) security requirements for a cannabis establishment; (3) requirements related to: (a) inspection and monitoring of a cannabis establishment; (b) a cannabis establishment’s recordkeeping and tracking of cannabis from seed until sale; (c) prevention of the sale or diversion of cannabis products in commercial cannabis activity to a person under the age of twenty-one; (d) labeling of cannabis products packaged, sold or distributed by a cannabis establishment; and (e) language for labels of cannabis products regarding potential adverse effects.” § 26-2C-3(B)(2) through 26-2C-3(B)(3).

What is **not** on that list is “approval from local jurisdictions.”

Approval from local jurisdictions is addressed in Section 26-2C-12 of the CRA. That section is called “Local Control,” and it explicitly grants authority to local jurisdictions to “adopt time, place and manner rules that do not conflict with the Cannabis Regulation Act or the Dee Johnson Clean Indoor Air Act [Chapter 24, Article 16 NMSA 1978], including rules that reasonably limit density of licenses and operating times consistent with neighborhood uses.”

Local jurisdictions are not powerless. Ultra Health has worked with many local jurisdictions in the course of opening more than 35 premises around the state, and Ultra Health can report that many local jurisdictions are knowledgeable and competent when it comes to cannabis. Some local jurisdictions are even more knowledgeable and competent than the Division itself. Representatives of local jurisdictions know what is happening on their own streets and can address problems more immediately than the Division can.

If a cannabis establishment has not obtained appropriate local approvals, the local jurisdiction has the power and the authority to take appropriate action against that establishment. The local jurisdiction has eyes and ears in the community, and when citizens complain about a cannabis establishment, those citizens usually call the local government first, rather than the Division. Local jurisdictions are able to confront cannabis establishments that do not comply with local zoning rules, and those local jurisdictions can also bring to bear their police forces or their authority to prosecute nuisances.

A recent illustration of local jurisdictions’ power came in the matter of the Division’s disciplinary proceedings against C.M.F. Productions. According to the statements of Division inspectors (attached here), the Division received significant assistance from the Clovis Police Department. Officers from the Clovis Police Department accompanied the Division inspectors and even obtained a search warrant. This incident shows plainly that local jurisdictions have authority and competence and may even have more authority than the Division to perform certain enforcement actions.

The Division must once again remember that it does not have a statutory duty or mission to be the ultimate and singular protector of local jurisdictions. Its statutory duty is to regulate cannabis-specific business practices.

A useful thought experiment is to consider construction permits. The Division does not collect construction permits from cannabis licensees. Why? Because there is an entirely different division of the Regulation & Licensing Department that regulates and controls building construction. It is called the Construction Industries Division. If a cannabis business fails to secure appropriate construction permits or “green tags,” or if a cannabis business’s building is “red-tagged,” it is answerable to the Construction Industries Division. The Construction Industries Division oversees construction permits of cannabis businesses just as it does for every other kind of business. The Cannabis Control Division has not volunteered to verify CID’s work, so it should not volunteer to verify the work of local jurisdictions.

The Cannabis Control Division cannot be and need not be all things to all people. It should recognize that with limited staff and limited budget, it must focus on its core competencies and let other authorities use the power and resources they have. Right now, the Division does not have the time, staff, resources, or knowledge to police local jurisdictional approvals. Local jurisdictions may still be stretched themselves, but they have more time, more staff, more resources, and more knowledge to police local jurisdictional approvals than the Division does.

The Regulation Bears No Connection To Current Disciplinary Actions

The proposed regulation bears no connection to the kinds of license violations that appear frequently in the Division’s recent disciplinary actions, and this disconnect further indicates the arbitrariness and capriciousness of the proposed regulation.

The Division’s recent disciplinary actions against licensees can provide valuable insight into regulatory trends: what kinds of violations are currently prevalent, which areas of compliance need more attention, and what kinds of problems have reached a breaking point?

The Division’s recent disciplinary actions against licensees show that many licensees cannot handle very basic aspects of regulatory compliance. The recent disciplinary actions do not show that lack of local approvals is an immediately pressing concern.

On October 12, 2023, the Division issued nine Notices of Contemplated Action, all of which are attached here. These nine Notices of Contemplated Action contain allegations that the noticed licensees failed at very basic tasks required of cannabis licensees: the licensee refused to allow Division inspectors access to the facility; the entity was performing activities it was not licensed to do; the licensee had not obtained any compliance testing for its products; the licensee did not use the mandated track-and-trace computer system; the licensee did not keep sales data; the licensee did not keep inventory records; the licensee was not properly charging cannabis excise tax; the licensee had no policies or procedures; the licensee sold products with California labels; the licensee sold products that appeared to have originated in California; the licensee

possessed more plants than the number for which it was licensed; the licensee did not use the BioTrack track-and-trace system to track plants; the licensee had no security measures; the licensee's facility had trash and pests in it; the licensee did not tag or track plants; the licensee's labels had incorrect or inappropriate information; the licensee lacked proper permits; the licensee lacked digital surveillance coverage; the licensees' employees lacked food handler cards.

One of the Notices of Contemplated Action, against Bien Loca Industries, does allege that the licensee lacked a business license. The severity of that allegation pales in comparison to the extremely egregious allegations against other licensees. Some licensees are, allegedly, doing activities for which they are not licensed. They have brought in products from California. They have refused to allow Division inspectors access to a licensed premise. They have failed to collect or pay taxes. Next to these very grave violations, lack of a business license barely registers.

If lack of local approvals was such a crisis, then one would expect the Division's recent Notices of Contemplated Action to be riddled with allegations about local approvals. Instead, the Division's recent Notices of Contemplated Action suggest that lack of local approvals is not a troubling trend. What is a troubling trend is licensees behaving like illegal drug dealers.

The Division must concentrate on the regulatory problems actually evidenced by its Notices of Contemplated Action, rather than creating new problems via vague, confusing, useless mandates.

The other regulatory crisis plaguing the cannabis industry relates to taxes. On October 25, 2023, the New Mexico Taxation and Revenue Department issued a press release regarding pervasive non-compliance with tax obligations. According to the press release, which is attached here, the Taxation and Revenue Department has spent several months investigating and determining which cannabis licensees had not properly paid cannabis excise tax or had "failed to file one or more tax returns." The press release reports that, "[s]ince the effort began, 80 retailers have come into compliance on their tax filings." However, "[m]ore than 100 license holders have not yet complied."

Ultra Health cannot overstate the gravity of the Department's announcement. 180 licensees did not properly pay cannabis excise tax or did not properly file necessary tax returns. Think about that number again: 180. This is not a handful of isolated incidents. This is a pervasive, widespread problem. The word "crisis" accurately describes the depth and breadth of noncompliance.

The Cannabis Control Division currently faces a regulatory crisis concerning tax compliance. A sizable proportion of cannabis licensees have failed to pay taxes. A rational agency would acknowledge this crisis and prioritize rulemaking in that area.

The available evidence indicates that the compliance area most in need of attention from the Division is taxation. However, the Division has not proposed any new regulations regarding taxation. Instead, the Division has proposed new regulations that have nothing to do with taxation. Ultra Health cannot understand, and a reviewing court will not understand, why the

Division has failed to prioritize those aspects of compliance that are currently in crisis, but instead has prioritized vague burdens unrelated to those aspects of compliance currently in crisis.

The Division's proposed regulations distract from the real regulatory crises. Those regulatory crises are well documented via Notices of Contemplated Action and Taxation and Revenue Department statements. The Division has in its possession clear indications of what its regulatory priorities should be. Instead of following the evidence, the Division has proposed a vague, burdensome regulation that has no connection to the situation on the ground.

16.8.2.22(C), 16.8.2.30(C), 16.8.2.36(C), 16.8.2.44(E) NMAC

These proposed rules state, "When the division determines an application for licensure is incomplete, an applicant will have 48 hours to rectify any deficiencies before the division will reject the application."

This rule is far too draconian and extreme. Ultra Health entirely understands that the Division needs to place a definitive timeline on license applications, but 48 hours is far too short a time to allow license applicants to gather supplemental information, *especially* when the Division has proposed two extremely vague regulations regarding the information that licensees must submit.

The Division cannot simultaneously 1) propose extremely vague regulations requiring licensees to submit "applicant's employee information" and "all applicable documentation from the local jurisdiction;" and 2) allow only 48 hours for the licensee to submit any information it overlooked. If the Division wants to indiscriminately collect random categories of information, it cannot give licensees so short a time to respond to deficiencies. The Division cannot have it both ways: it cannot have a short turnaround time for licensing and a burdensome license renewal process. If the Division wants a burdensome license renewal process, then it will have to allow more time.

The other problem with the 48-hour period is that it is measured in hours, instead of days. Every other deadline or time period in the Division's regulations is measured in days. Measuring in hours is inconsistent and unworkable in practice.

When the Division inspects cannabis licensees, the licensee has the opportunity to submit a Corrective Action Plan. As indicated on the attached inspection checklists, licensees have five business days to submit the Corrective Action Plan. The Division should be consistent and stick with the five-business-day timeline.

Ultra Health believes five business days is a fair, reasonable, and workable period in which a licensee applicant can respond to deficiencies.

16.8.2.22(A)(10), 16.8.2.30(A)(9), 16.8.2.36(A)(8), 16.8.2.44(A)(6)

These proposed rules require "a detailed description of any denial, suspension, revocation, surrender, or any other form of discipline or disciplinary action by a cannabis

licensing agency in another state, jurisdiction or territory against the applicant or any controlling person associated with the applicant.”

Ultra Health does not oppose a requirement that applicants explain any out-of-state disciplinary actions, but Ultra Health cautions the Division that this rule may contain vague, overbroad, and arbitrary language.

The proposed rule requires a description of disciplinary action against the “application or any controlling person associated with the applicant.” No definition has been provided for what the Division means by “associated with the applicant.”

What is a “controlling person associated with the applicant?” We know what a “controlling person of the applicant” would be, because the Cannabis Regulation Act contains a statutory definition of “controlling person:” “a person that controls a financial or voting interest of ten percent or more of, or an officer or board member of, a cannabis establishment.” § 26-2C-2(U).

The phrase “associated with the applicant” seems to reach much further, however. It could mean persons who previously controlled an interest, but no longer do now. It could mean prior board members in addition to current board members. It could mean officers of a company that absorbed, purchased, or merged with the applicant. It could mean people that the Division *thinks* are controlling persons but really are not. It could mean a controlling person of a management company that provides management services to the licensee applicant.

Ultra Health urges the Division to reexamine its proposed rules with an eye toward exactitude and specificity. Vague regulations help no one—neither licensees nor the Division itself.

16.8.2.44(A)(5) NMAC

This proposed rule would require that applicants for an initial OR a renewed cannabis testing laboratory license provide to the Cannabis Control Division a “list of all natural persons who hold any financial or voting interest, including but not limited to natural persons associated with any businesses having a financial or voting interest in the cannabis testing laboratory to ensure compliance with NMSA 1978, 26-2C-6(G).”

Once again, this proposed regulation is vague, arbitrary, capricious, and not in accordance with law.

Ultra Health must again point out that the proposed regulation is impermissibly vague. The regulation calls for identification of “natural persons associated with any business having a financial or voting interest in the cannabis testing laboratory.” What does “associated with any business” mean? Does it mean the members of an LLC? The shareholders of a corporation? Or does it reach further, to any natural person employed by a business? To customers of such a business? To the spouses of a member of an LLC? To the spouses of corporate shareholders? To a natural person who is a spokesperson or advertising representative and is therefore “associated”

with the company? The public “associates” Michael Jordan with Hanes Fruit of the Loom garments because he has appeared in Hanes commercials for three decades, but that does not mean Michael Jordan is an officer, member, or shareholder of Hanes.

The Division must be much more specific here if it expects a court to sanction this rule. It cannot use such vague language as “associated with.” It must review the corporate statutes and use the same terminology as those statutes use: members of LLCs, officers, directors, shareholders of corporations, partners in partnerships, etc.

On that note, however, Ultra Health advises the Division that its powers of verification are limited. Let us say the Division revises its proposal and mandates identification of “natural persons who are members of an LLC having a financial or voting interest in the cannabis testing laboratory.” The Division then takes its list over to the Secretary of State’s office to verify the information submitted by the laboratory applicant. The Secretary of State will be unable to verify who the members of an LLC are, because New Mexico law does not require that LLCs divulge the identify of their members.

The New Mexico Limited Liability Companies statute is Chapter 53, Article 19. It contains no requirement that LLCs identify the identity of their members—not to the Secretary of State, and not to any other entity. This makes New Mexico an “anonymous LLC” state, and it means that if the Division believes it will always be able to obtain verification of an LLC’s members, the Division is incorrect.

Ultra Health reiterates that all administrative rules created by an agency must be in accordance with the statute that authorizes those rules. A regulation not in accordance with law should be vacated “if the agency unreasonably or unlawfully misinterprets or misapplies the law.” *Archuleta v. Santa Fe Police Dep’t*, 2005 NMSC-006, ¶ 18, 137 N.M. 161. Courts “are not bound by an agency’s interpretation of a statute, since it is a matter of law that is reviewed de novo.” *Rio Grande Sierra Club v. N.M. Mining Comm’n*, 2003-NMSC-005, ¶ 17.

Furthermore, “[a]gencies are created by statute, and limited to the power and authority expressly granted or necessarily implied by those statutes.” *Qwest Corp. v. N.M. Pub. Reg. Comm’n*, 2006-NMSC-042, ¶ 20, 140 N.M. 440. An agency violates separation of powers principles when it “goes beyond the existing New Mexico statutes or case law it is charged with administering and claims the authority to modify this existing law or to create new law on its own.” *State ex rel. Sandel v. N.M. Pub. Util. Comm’n*, 1999-NMSC-019, ¶ 12, 127 N.M. 272. “An administrative agency has no power to create a rule or regulation that is not in harmony with its statutory authority.” *Rivas v. Bd. of Cosmetologists*, 1984-NMSC-076, ¶ 3, 101 N.M. 592.

Here, the Division goes beyond the statute it is charged with administering and claims authority to modify the law and create new law on its own. Section 26-2C-6(G) of the Cannabis Regulation Act states, “The division shall not allow a person that is licensed as any type of cannabis establishment other than a cannabis research laboratory to hold, directly or indirectly, a cannabis testing laboratory license.” This section means a natural person/corporate entity that is licensed as some type of cannabis operation should not possess a cannabis testing laboratory license.

To ensure compliance with this section of the statute, the Division needs to know 1) who possesses non-testing cannabis licenses; and 2) who directly possesses a testing laboratory license; and 3) who indirectly possesses a cannabis testing laboratory license.

Categories 1 and 2 are easy and self-explanatory. Category 3 is, Ultra Health will grant, harder to interpret. Ultra Health could conceivably accept that Category 3 covers majority shareholders, LLC members, or partners. However, anything beyond that circle expands on the statute without authority.

A more concrete example is useful. Say that Testing Laboratory Inc. is a closely-held corporation with three shareholders. One shareholder is a natural person—call him Joe Shareholder—who owns 40% of the corporation. One shareholder is another corporation—call it Lab Investor Corporation—which owns 30%. The final shareholder is an LLC—call it Lab Funder LLC—which owns 30%. The Division would be entirely within the bounds of the Cannabis Regulation Act to ask for the identities of Joe Shareholder, Lab Investor Corporation, and Lab Funder LLC.

But the Division has now pushed out to another circle (like concentric circles rippling out from a pebble dropped in a pond). It now asks for the identity of “natural persons associated” with Lab Investor Corporation and Lab Funder LLC. The Division is getting more and more degrees of separation between the laboratory itself and the “associated” persons. Soon, the Division will be playing Six Degrees of Kevin Bacon or drawing networks on a whiteboard to try to construct a conspiracy theory.⁵

The statute does not authorize such an expansive inquiry into corporate composition. It takes a reasonable, limited position in order to address the potential problem of undue influence in analytical testing. It does not surrender to paranoia and direct the Division to lift up every curtain and overturn every rock searching for corruption where none exists.

Ultra Health also must ask the Division for an explanation of why the Division believes this regulation is necessary at this time. Where is the fire? Where is the evidence of corruption in testing? Where is the evidence of undue influence in testing? Ultra Health is likely the largest consumer of cannabis testing in the state, and so if improper forces are influencing laboratories, Ultra Health would certainly like to know about it. When the Division in 2023, after two years of licensing have already gone by, proposes to increase scrutiny of testing laboratories, the Division gives the impression of some crisis within the testing sector. If such a crisis exists, the Division needs to be transparent with licensees. If a crisis does not exist, the Division should not sow fears of one.

The Division recently told media that lack of testing is one of the factors that makes products from outside New Mexico so dangerous. Coverage from July 2023 about licensed retailers selling products from California quotes Division employee Robert Sachs as saying, “We don’t know the THC content, we don’t know whether it’s been tested for pesticides, we don’t know if it’s been tested for microb[i]ols.” See printout of KOAT story, attached here. Mr. Sachs’

⁵ <https://knowyourmeme.com/memes/pepe-silvia>

statement from July 2023 indicates that untested cannabis can potentially be dangerous. It also implies that the testing regime in New Mexico can prevent or alleviate those dangers.

In July 2023, the Division implied that New Mexico’s cannabis testing laboratories are reliable. Now, the Division implies that additional scrutiny of New Mexico’s cannabis testing laboratories is necessary. So which is it? Either the Division thinks that testing is reliable or it does not. Is testing reliable and not impacted by undue influences? Or is testing unreliable and corrupted by interlocking business interests? The Division cannot have it both ways.

The Division undermines public trust in testing when it calls into question the reliability and integrity of testing providers without evidence. Increasing scrutiny on testing laboratories without indicating what triggered it suggests that the Division simply wants to “do something” to appear tough. It makes an easy grab for low-hanging fruit so that it can notch a regulatory win, but that win creates collateral damage. The Division should focus on actual problems and offer actual solutions to those problems, instead of unduly scrutinizing a part of the industry that, at least in Ultra Health’s experience, functions quite well.

16.8.3.9(K)(4), 16.8.3.12(A)(9)(c) NMAC

These proposed rules state that, as to labeling and packaging of cannabis products, “No sticker or other obstruction shall be used to cover the cannabis logo.” This rule requires clarification, because many cannabis licensees in New Mexico use stickers with the New Mexico THC logo.

The Division has required that the “THC” logo be printed in red ink. It is logistically difficult and prohibitively expensive to find label printers that will print in both black and red ink. Even if a licensee could find and afford a label printer that could do black and red ink, it is logistically difficult to balance red ink and black ink supplies. To surmount these difficulties, many licensees buy rolls of small stickers that have the red THC logo on the sticker. They then place the sticker on the black-ink-printed label or elsewhere on the package.

This is a common practice in other states as well, where the THC logo must be printed in other colors. Cannabis suppliers have accommodated the need for colored logos by offering a wide variety of sticker rolls. See <https://thclabelsolutions.com/categories/labels/state-specific-labels.html#> and <https://www.bagking.com/collections/labels> and <https://creativematedesign.com/product/state-cannabis-warning-labels/> and <https://dragonchewer.com/collections/new-mexico> (PDFs of webpages also attached here).

The Division must clarify that using a sticker with the New Mexico “THC” logo in red is an acceptable practice. What is **not** acceptable is obstructing the logo in any way—whether with a different sticker or some other means.

The Division can simply say, “The cannabis logo shall not be concealed or obstructed” and leave it at that.

16.8.11.10(B)

This proposed rule would charge a license \$75 for the licensee’s “Designation of a non-controlling person as an agent.”

This proposed rule is ill-advised and unfair, because it penalizes licensees who avail themselves of professional services from a lawyer, accountant, or other representative. Many of the “controlling persons” of licensees are investors or owners who are busy with the day-to-day operations of their cannabis businesses, and those investors and owners must seek help from professionals who routinely deal with licensing authorities as part of their work—attorneys, accountants, or similar agents.

It is unfair, unreasonable, and arbitrary to charge licensees a fee simply because those licensees choose to have an agent represent them in relations with the Division. Those licensees that choose to have an agent represent them are likely doing so to increase their professionalism, decrease licensing difficulties, and streamline communications with the Division. That not only benefits the licensee, but it benefits the Division as well.

The use of an authorized agent—like an attorney or accountant—can make life easier for both licensees and the Division because it can add a greater degree of professionalism to the communication that goes back and forth between a licensee and Division staff. The Division now wants to make life harder for licensees by charging a fee to do something that businesses do all the time with a variety of state agencies. Many kinds of businesses, other than cannabis businesses, use agents to deal with licensing authorities and do not routinely get penalized and charged for it.

Ultra Health understands why the Division would charge \$75 per license amendment, as it proposes to do so. The \$75 can go toward staff expenses or other processing expenses. Ultra Health cannot understand why the Division would charge \$75-per-agency-designation, when such a designation actually improves Division efficiency. The Division should actually *desire* some licensees to designate agents, because those agents are likely professionals who regularly and routinely communicate with government agencies, unlike many controlling persons who are knee-deep in running a business and do not have practice or experience in navigating government agencies.

Making life more difficult for licensees who are *trying* to operate legally does nothing to reduce or eliminate the illicit market.

Conclusion

Ultra Health understands that the Division is under considerable pressure to rein in the wild horse that New Mexico’s cannabis industry has become. Ultra Health supports the Division’s compliance efforts, but Ultra Health cautions the Division not to surrender too quickly to the compulsion to “just do something.” The Division should not rush into doing something that has little usefulness simply so that it can show it “did something.” Instead, the Division

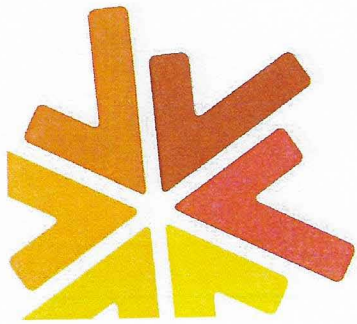
November 6, 2023
Cannabis Control Division

should think carefully about the most useful, most efficient, and most strategic mechanisms for targeting wrongdoers.

Please do not hesitate to contact Ultra Health with any questions.

Sincerely,

/s/ Kristina Caffrey
Kristina Caffrey
Chief Legal Officer
Ultra Health
kristina@ultrahealth.com
505-401-7847 (cell)



Compliance Update

295 Total Inspections between April 2023 – August 2023

- Retail Inspections: 229
- Producer Inspections: 40
- Manufacturer Inspections: 26

9 Total Notices of Contemplated Action, 2023

- Settlements: 3; 1 pending settlement discussion
- Pending Hearings: 3
- Revoked Licenses: 2



NIMRLD
NEW MEXICO
REGULATION &
LICENSING DEPARTMENT



NEW MEXICO CANNABIS CONTROL DIVISION RETAIL FACILITY INSPECTION CHECKLIST

LICENSE INFORMATION

General Inspection Complaint Inspection

CCD License ID Number:		Licensee Name:	
Business Name:		UBI Number:	
Premises Physical Address:			
Date of Inspection:		Inspection Time:	
Inspector(s):			
Facility Representative (present):		Job Title:	

Additional License Type(s)			
<input type="checkbox"/> Manufacturing Class: _____		<input type="checkbox"/> VICE	
<input type="checkbox"/> Consumption Type: _____		<input type="checkbox"/> Microbusiness	
<input type="checkbox"/> Production		<input type="checkbox"/> Integrated Microbusiness	

ALL ITEMS MARKED OUT OF COMPLIANCE REPRESENT VIOLATIONS AND MUST BE CORRECTED. FAILURE TO CORRECT A VIOLATION MAY RESULT IN DIVISION ACTION.

Y In compliance, all requirements for this item are met

N Out of Compliance, needs correction (notes required)

GENERAL LICENSING REQUIREMENTS

Y	N	Description	Rule
<input type="checkbox"/>	<input type="checkbox"/>	CCD License is displayed in an area that is within plain sight of the public.	16.8.2.8 (I)
<input type="checkbox"/>	<input type="checkbox"/>	The facility maintains the required license(s) for the operations conducted on site. Facility operations include: <input type="checkbox"/> Commercial Retail 16.8.2.35 (B) <input type="checkbox"/> Medical <u>Only</u> <input type="checkbox"/> Consumption- Type: _____ 16.8.2.49(A)(1)(2) <input type="checkbox"/> Manufacturing- Class: _____ 16.8.2.29 <input type="checkbox"/> Production 16.8.2.21(C) <input type="checkbox"/> Other: _____	

Notes:

SECURITY AND LIMITED-ACCESS REQUIREMENTS

Y	N	Description	Rule
<input type="checkbox"/>	<input type="checkbox"/>	All areas where cannabis and cannabis products are stored or held, weighed, packaged, manufactured, disposed of, wastage and all point of sale areas, take place in a designated limited-access area that complies with the security requirements to ensure that the licensed premises, including a vault, are secure.	16.8.2.10 (I) LOCKS (J)(2) RECORD LOGS (J)(5) POSTED SIGNS (K) ID BADGES (L) LIGHTING (M) DOORS, WINDOWS

Notes:

- A digital surveillance system is maintained and clearly and effectively records images 24 hours or is motion activated, is recording in all required areas, recordings are kept for a minimum of 30 days, is stored in a manner to protect from theft or tampering, recorded images clearly and accurately display the **time** and **date**, and it is equipped with a failure notification system. 16.8.2.10
(D)(E)(F)(G)

Notes:

- An operational security alarm system is maintained, continuously monitored, includes a failure notification, monitored sensors on entry points and perimeter windows, is audible and capable of being disarmed remotely and all security system equipment is maintained in a secure location so as to prevent theft, loss, destruction and alterations. 16.8.2.10
(A)(B)(C)

Notes:

OPERATIONAL REQUIREMENTS AND MINIMUM STANDARDS FOR RETAIL

Y	N	Description	Rule
<input type="checkbox"/>	<input type="checkbox"/>	Individuals are only granted access to purchase cannabis goods after the retailer has confirmed the individuals age and identity, and, if applicable, the individuals status as a qualified patient, primary caregiver, or reciprocal participant.	16.8.2.40 (C)(1)
Notes:			
<hr/>			
<input type="checkbox"/>	<input type="checkbox"/>	A track and trace system account is activated and functional and comprehensive records are maintained to ensure adequate inventory tracking of any cannabis or cannabis products.	16.8.7.9 (A)
Notes:			
<hr/>			
<input type="checkbox"/>	<input type="checkbox"/>	Cannabis or cannabis products for sale were received by the retail licensee from a licensed producer, licensed producer microbusiness, licensed manufacturer, licensed vertically integrated cannabis establishment or licensed integrated cannabis microbusiness.	16.8.2.40 (G)(1)(A)
Notes:			
<hr/>			
<input type="checkbox"/>	<input type="checkbox"/>	A reconciliation of inventory performed at least once every calendar month verifies that the licensed retailer's physical inventory is consistent with the licensed retailer's records pertaining to inventory, and is made available to the division upon request.	16.8.2.40 (K)
Notes:			
<hr/>			
<input type="checkbox"/>	<input type="checkbox"/>	A accurate record of every sale includes: first name and employee number; date and time of transaction; list of all products purchased (including quantity); and the total amount paid including the individual prices paid for each cannabis or cannabis product and any amounts paid for cannabis excise tax.	16.8.2.40 (L)
Notes:			
<hr/>			

POLICIES AND PROCEDURES

Y	N	Description	Rule
<input type="checkbox"/>	<input type="checkbox"/>	Protocols to ensure that cannabis or cannabis products are transported and stored in a manner that prevents degradation, contamination, tampering or diversion are maintained.	16.8.2.39 (A)(1)(e)
<i>Notes:</i>			
<input type="checkbox"/>	<input type="checkbox"/>	Chain of custody procedures and documentation requirements to ensure appropriate tracking and tracing of cannabis and cannabis products are maintained with a paper-based or electronic form that documents the possession of cannabis or cannabis products, and includes: the originating location; the time and date of transfer; the size, number of boxes, and number of pieces; the internal batch or lot numbers, (and if different, the track and trace batch or lot numbers); and a dated signature of the person receiving the products.	16.8.2.12
<i>Notes:</i>			
<input type="checkbox"/>	<input type="checkbox"/>	For samples, in addition to the above, chain of custody procedures include: the types of containers, mode of collection, the authorized individual who collected the sample, the date and time of collection, preservation, and requested analyses of the sample and security requirements to ensure security and the safety of cannabis and cannabis products and transport personnel.	16.8.2.40 (A)(6)
<i>Notes:</i>			
<input type="checkbox"/>	<input type="checkbox"/>	Written Procedures for recalling cannabis products that have been sold or otherwise distributed to the public or other cannabis establishments are available upon request.	16.8.2.11
<i>Notes:</i>			

EMPLOYEE TRAINING

Y	N	Description	Rule
<input type="checkbox"/>	<input type="checkbox"/>	All personnel present at the premises are provided information and training that, at minimum, covers, <i>within 30 days of the start of employment</i> : Health and safety hazards; security procedures; Record keeping requirements and <i>prior to engaging in any cannabis retail process</i> : An overview of the process and standard operating procedure(s); Safe work practices applicable to an employee's job tasks, including appropriate use of any necessary safety or sanitary equipment; Cleaning and maintenance requirements; Emergency operations, including shutdown; and any additional information reasonably related to an employee's job duties.	16.8.2.39 (B)(1)(2)
<i>Notes:</i>			
<input type="checkbox"/>	<input type="checkbox"/>	All personnel who handle edible products successfully completed a food handler course accredited by the American national standards institute (ANSI). The licensee obtained documentation evidencing the fulfillment of this requirement.	16.8.2.39 (B)(3)
<i>Notes:</i>			

FINISHED PRODUCT PACKAGING AND LABELING

Y	N	Description	Rule
<input type="checkbox"/>	<input type="checkbox"/>	Branding is not designed to be appealing to a child and does not contain cartoons, symbols, images, or resemble a product typically marketed to minors. <i>Notes:</i>	16.8.3.8 (C)
<input type="checkbox"/>	<input type="checkbox"/>	Containers are child-resistant (<i>except containers with cannabis flower</i>). If the product is multiple use, or contains multiple servings, it is also packaged in a container that is resealable and continually child resistant. <i>Notes:</i>	16.8.3.12 (A)(3)
<input type="checkbox"/>	<input type="checkbox"/>	Cannabis or cannabis products for sale have undergone laboratory testing as required. <i>Notes:</i>	16.8.2.40 (G)(d)

Y N

FINISHED PRODUCT PACKAGING AND LABELING REVIEW

Product packaging and labeling complies with division rules and regulations and the cannabis or cannabis product complies with all applicable requirements. 16.8.2.40 (G)(1)(e)(f)

Product#1 Name: _____ ID#: _____ Type: _____


Notes:

Product#2 Name: _____ ID#: _____ Type: _____

Notes:

Product#3 Name: _____ ID#: _____ Type: _____

Notes:

<p>Product Packaging Rules 16.8.3(12)(13)(14)</p> <ul style="list-style-type: none"> Includes a child resistant mechanism Not damaged or compromised Resealable (flower) Food grade or GRAS container (edibles, topicals, seeds) Compostable, recyclable or made from recycled materials (Recreational edibles) shall not exceed 10 mg THC per serving or 100 mg total THC per container (Medical edibles) identified as Medical Use Only do not exceed 50 mg THC per serving (Edibles) identify individual servings (Liquid products) single serving only Or has a mechanism that identifies single servings 	<p>Product Labeling Rules 16.8.3.9 (A)(H)</p> <ul style="list-style-type: none"> Printed on or affixed to package Unobstructed and conspicuous QR Code links directly to required product information <p>Label Shall Not Contain 16.8.3.9(I)</p> <ul style="list-style-type: none"> Words associated with products for minors including: "Candy" or "Candies" Cartoons, Celebrities, or Celebrity Likeness Advertising or Marketing Misleading or Untruthful Statements 	<p>Label Must Contain 16.8.3.9(K)</p> <ul style="list-style-type: none"> Product Identity in Bold * * Net Qty, Weight, or Volume * * Potency THCA & CBDA * * (required if detected) <ul style="list-style-type: none"> Division Approved Logo * * Must Be Refrigerated (Perishable or Time/Temp- Edibles/topical) <ul style="list-style-type: none"> "For use only by adults 21 and older. Keep out of reach of children *. Do not drive... or operate machinery... BE CAUTIOUS. Cannabinoid edibles can take up to two hours or more to take effect." * <p>Informational Panel or QR Code 16.8.3.9(L)</p> <ul style="list-style-type: none"> Manufacturer Name * * Manufacturer License # * * Pesticides Used by Producer Date manufactured Ingredient List Active Ingredients Contains Allergens Statement Nutritional Information Poison Control Center # Expiration Date Track and Trace ID Number * * Solvents, Processing Aids, Chemicals used "This product is not approved by the FDA..."
<p>Seeds and Immature plants 16.8.3.10</p> <ul style="list-style-type: none"> Potency potential, laboratory confirmed (of the parent cannabis plant) Division approved THC! logo Net quantity (Seeds) <p>*ADDITIONAL REQUIREMENTS REFERENCE: NMDA SEED LAW 76-10-13</p>		
<p>CCD DIVISION APPROVED LOGO:</p> 		

* Requirements if surface area is less than 2" squared 16.8.3.9 (N) * QR Code, peel back or accordion label must contain all other required information

INSPECTION REPORT

No violations

Violations marked, notes included, **corrective action required.**

Total Number of Violations: _____

Signature	Date
Inspector:	
Facility Representative:	

CORRECTIVE ACTION PLAN

A corrective plan of action shall be submitted to the CCD within five (5) business days from the receipt of this inspection report if violations are noted.

Submit the Corrective Action Plan to the CCD compliance email:

CCD.Compliance@RLD.NM.GOV

The email subject line shall include:

- "Corrective Action Plan"
- Name of business
- The date

Example: Corrective Action Plan CCD 10/10/2022

The Corrective Action Plan shall include:

- The steps taken to address the violation(s)
- The name of the staff person, contractor, or individual responsible for completing the corrective action
- The date or anticipated date of completion (No more than 30 days)

Submit proof to the CCD compliance email by providing photos, videos, or completed documents to be reviewed by staff as violations are corrected and no later than the anticipated date of completion. (If more than 30 days are required to complete corrective actions contact CCD to request approval for an extension).

Once all violations have been rectified and the CCD has confirmed all violations to be in compliance, the licensee will receive a CLOSEOUT LETTER in which documents that all violations have been rectified and that the facility is in compliance and in good standing for license renewals.

Failure to submit corrective action plans and/or proof of compliance may result in a revocation or suspension of your license and/or fees and fines. See, Division Action **16.8.12.11**

NOTICE PROVIDED TO LICENSEE/REPRESENTATIVE

GENERAL

Description	Rule
<p>A complete and detailed premises diagram must be maintained on the licensed premises and shall be used by the division to determine whether the premises meets CCD requirements. The diagram must show the following:</p> <ul style="list-style-type: none"> • the boundaries of the property • the dimensions of each area that cannabis will be stored and available to the public • any equipment to be used • entrances and exits, interior partitions, walls, rooms, windows, and doorways • a description of the principal activity conducted • where all cameras are located with a number to each camera for identification purposes • must be to scale and not contain any highlighting, markings in black-and-white print. 	16.8.2.38
<p>If the proposed premises consists of only a portion of a property, the diagram must be labeled indicating which part of the property is the proposed premises and what the remaining property is used for.</p>	16.8.2.38 (F)
<p>If the proposed premises consists of only a portion of a property that will contain two or more licensed premises, then the diagram shall be supplemented with a description of how two or more licensed premises will be managed on the property.</p>	16.8.2.38 (G)
<p>If a proposed premise is located on only a portion of a property that also includes a residence, the diagram shall clearly show the designated buildings for the premises and the residence.</p>	16.8.2.38 (H)
<p>All sales of cannabis goods, with the exception of cannabis goods sold through delivery, must take place within the retail area of the retailer’s licensed premises.</p>	16.8.2.40 (C)(3)
<p>A licensed retailer shall sell and deliver cannabis goods only between the hours reported to the division as regular business hours.</p>	16.8.2.40 (C)(4)
<p>Establishments shall make reasonable efforts to sell a min. of 25% of monthly cannabis sales to qualified patients, (until Dec 31, 2022- After 10% in stock monthly is designated for patients 16.8.8.11(C)(1)).</p>	16.8.8.11 (A)
<p>Cannabis excise tax shall not apply to retail sale of medical cannabis or cannabis products. Cannabis excise tax shall apply to commercial sales of cannabis and cannabis products.</p>	16.8.2.40 (H)(3)
<p>A licensed retailer shall not sell more than the following amounts at one time to a single commercial cannabis customer:</p> <ul style="list-style-type: none"> • two ounces of cannabis • 16 grams of cannabis extract • 800 milligrams of edible cannabis • six immature cannabis plants 	16.8.2.40 (H)(1)
<p>The limits shall not be combined to allow a customer to purchase cannabis or cannabis products in excess of the limits provided.</p>	16.8.2.40 (H)(4)
<p>The limits shall not prohibit the sale of different product types to a single customer, as long as the total amount sold does not exceed the limits set forth above.</p>	16.8.2.40 (H)(5)
<p>At least one employee shall be physically present in the retail area when non-employees are present.</p>	16.8.2.40 (J)(1)
<p>If cannabis products are made available for customer inspection retail personnel must assist.</p>	
<p>Retailers shall not provide free cannabis or cannabis product(s) to any person or allow individuals to provide free cannabis product to any person on the licensed premises(only to qualified patients if all criteria are met).</p>	16.8.2.40 (J)(1) 16.8.2.40 (J)(2)
<p>Cannabis products removed from packaging for display shall not be sold or consumed but destroyed.</p>	16.8.2.40 (F)(3)
<p>Customer Return of Cannabis Goods: A licensed retailer may accept customer returns of cannabis or cannabis products that were previously sold to a customer and shall not resell they shall destroy all cannabis or cannabis products that have been returned to the licensed retailer by a customer, pursuant to 16.8.2.15 WASTAGE OF CANNABIS OR CANNABIS PRODUCTS; PERMITTED METHODS</p>	16.8.2.40(I)
<p>Cannabis wastage must be rendered unusable and unrecognizable by grinding and incorporating into ground material so the resulting mixture is at least 50% non cannabis. It must be held in a secure location for 72 hours prior to being wasted. Wastage must be recorded recording must be retained for no less than 120 days and be available to the division upon request.</p>	16.8.2.15
<p>Any perimeter entry point must have lighting sufficient for observers to see, and cameras to record, any activity within 20 feet of the gate or entry (a motion detection lighting system may be employed to light required areas in low-light conditions).</p>	16.8.2.10 (L)

All external entrances to indoor facilities must be able to be locked and all perimeter doors and windows of indoor facilities must be in good condition and lockable.	16.8.2.10 (M)
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LIMITED ACCESS AREAS	
Description	Rule
Only authorized employees of the licensee and other authorized individuals have access to the limited-access areas of the licensed premises.	16.8.2.10 (J)
A daily record log, which may be a sign-in and sign-out sheet at the entrance of a premises, of all authorized employees and authorized individuals that are not employees of the licensee who enter the limited-access areas is maintained.	16.8.2.10 (J)(2)
Limited-Access record logs are kept for a minimum of 90 days, or 12 months if a theft or security incident occurs, and must be made available to the division within 48 hours upon request.	16.8.2.10 (J)(3)
Entrances to all limited-access areas have a solid door, or if appropriate, a gate adequate to block access, and a lock meeting the requirements set forth in subsection I of this section, and unless prohibited by building or fire codes, the entrance shall remain locked when not in use during regular business hours.	16.8.2.10 (J)(4)
Posting of a sign identifies all limited-access areas (12" x 12" and states "Do Not Enter - Limited Access Area Access Limited to Authorized Personnel Only").	16.8.2.10 (J)(5)
Employee identification badges are visible displayed at all times while present within a limited-access area are laminated or plastic-coated and include: <ul style="list-style-type: none"> • the licensee's "doing business as" name and license number • the individual's first name • an employee number exclusively assigned to that employee for identification purposes • a color photograph of the employee that clearly shows the full front of the employee's face). 	16.8.2.10 (K)
Visitor identification badges are obtained by other authorized individuals prior to entering a limited-access areas.	16.8.2.10 (J)(7)

POLICIES AND PROCEDURES	
Description	Rule
Cannabis handling criteria and procedures, include at a minimum: <ul style="list-style-type: none"> • employee health and safety training materials; • training requirements for the proper use of health and safety measures and controls • if applicable, record-keeping and chain of custody protocols for transportation of cannabis or cannabis product samples to a cannabis testing laboratory • record-keeping and chain of custody protocols for transportation of cannabis or cannabis products to another cannabis establishment for any purpose; • protocols to ensure that cannabis or cannabis products, including any samples of cannabis or cannabis products, are transported and stored in a manner that prevents degradation, contamination, tampering, or diversion • if applicable, protocols for testing sample collection that ensures accurate test results • if applicable, procedures for remedial measures to bring cannabis or cannabis products into compliance with division standards or destruction of a tested batch of cannabis or cannabis products if the testing samples from the tested batch indicate noncompliance with applicable health and safety standards 	16.8.2.39 (A)(1)
Employee policies and procedures to address the following minimum requirements: <ul style="list-style-type: none"> • adherence to state and federal laws • responding to an emergency, including robbery or a serious accident • alcohol and drug-free workplace policies and procedures • safety and security procedures • occupational safety • crime prevention techniques • confidentiality laws 	16.8.2.39 (A)(2)
Documentation prepared for each employee and statements signed by employees indicating receipt and understanding of policies and procedures.	16.8.2.39 (A)(3)

REQUIRED TESTING	
Description	Rule
A cannabis retailer, vertically integrated cannabis establishment, or integrated cannabis microbusiness shall not sell or deliver to a patient or consumer any cannabis product unless the cannabis product has undergone all testing required. (Potency, homogeneity, visual inspection, microbiological, residual pesticides, residual solvents).	16.8.7.15 (3)

TRAINING DOCUMENTATION		
Description		Rule
A list of all personnel at the premises, (name and job duties of each; documentation of training topics and dates of training completion for all personnel).		16.8.2.39 (C)(D)
Dates of refresher training completion for all personnel (Annual).		16.8.2.39 (C)(1)(c)
The signature of each employee verifying receipt and understanding of each.		16.8.2.39 (C)(1)(d)
Retention: Two years for current employees and at least six months after the termination of an employee's employment.		16.8.2.39 (D)

ADVERTISING AND MARKETING		
Description		Rule
All advertisements in print and digital communications shall only be placed in areas where at least seventy percent of the audience is reasonably expected to be 21 years of age or older.		16.8.3.8 (A)(1)(2)
Required statement: •"Please Consume Responsibly"		16.8.3.8(A)(3)
Required warnings: • For use only by adults 21 and older		16.8.3.8(A)(3)
<ul style="list-style-type: none"> • Keep out of reach of children • This product is not approved by the FDA to treat, cure, or prevent any disease. FDA has not evaluated this product for safety, effectiveness, and quality • Do not drive a motor vehicle or operate machinery while under the influence of cannabis • There may be long term adverse health effects from consumption of cannabis, including additional risks for women who are or may become pregnant or are breastfeeding. 		
Advertising and marketing activities of cannabis products shall not: Be on billboards, posters, handbills or other visual media that are located or can be viewed within 300 feet of a school, daycare center or church; Contain symbols or images, including a celebrity or celebrity likeness, that are commonly used to market products to minors; Use predatory marketing or advertising practices targeting minors Be designed to mimic any other product brand; Promote the over consumption of cannabis or cannabis products; Depict the actual consumption of cannabis or cannabis products.		16.8.3.8 (B)

Notes:



NEW MEXICO CANNABIS CONTROL DIVISION PRODUCTION FACILITY INSPECTION CHECKLIST

General Inspection Complaint Inspection

LICENSE INFORMATION

CCD License ID Number:	Licensee Name:
Business Name:	UBI Number:
Premises Physical Address:	
Date of Inspection:	Inspection Time:
Inspectors:	
Person In Charge:	Job Title:

Additional License Type(s)

- | | |
|---|---|
| <input type="checkbox"/> Manufacturing Class: _____ | <input type="checkbox"/> VICE |
| <input type="checkbox"/> Consumption Type: _____ | <input type="checkbox"/> Microbusiness |
| <input type="checkbox"/> Production | <input type="checkbox"/> Integrated Microbusiness |

**ALL ITEMS MARKED OUT OF COMPLIANCE REPRESENT VIOLATIONS AND MUST BE CORRECTED.
FAILURE TO CORRECT A VIOLATION MAY RESULT IN DIVISION ACTION.**

Y In compliance, all requirements for this item are met

N Out of Compliance, needs correction (notes required)

GENERAL LICENSING REQUIREMENTS

Y	N	Description	Rule
<input type="checkbox"/>	<input type="checkbox"/>	CCD License is displayed in an area that is within plain sight of the public.	16.8.2.8 (I)
<input type="checkbox"/>	<input type="checkbox"/>	The facility maintains the required license(s) for the operations conducted on site. Facility operations include: <input type="checkbox"/> Commercial Retail 16.8.2.35(B) <input type="checkbox"/> Medical Only <input type="checkbox"/> Consumption 16.8.2.49 (A)(1)(2) Type: _____ <input type="checkbox"/> Class: _____ 16.8.2.29 <input type="checkbox"/> Production 16.8.2.21(C) <input type="checkbox"/> Other: _____	

Notes: _____

SECURITY AND LIMITED-ACCESS REQUIREMENTS

Y	N	Description	Rule
<input type="checkbox"/>	<input type="checkbox"/>	All areas where cannabis and cannabis products are stored or held, weighted, packaged, manufactured, disposed of, wastage and all point-of-sale areas, take place in a designated limited-access area that complies with the security requirements to ensure that the licensed premises, including a vault are secure.	16.8.2.8 (I) (I) LOCKS (J)(2) RECORD LOGS (J)(5) POSTED SIGNS (K) ID BADGES (L) LIGHTING (M) DOORS, WINDOWS

Notes: _____

- A digital surveillance system is maintained and clearly and effectively records images 24 hours or is motion activated, is recording in all required areas, recordings are kept for a minimum of 30 days, is stored in a manner to protect from theft or tampering, recorded images clearly and accurately display the time and date, and it is equipped with a failure notification system. 16.8.2.10(D-G)

Notes: _____

- An operational security alarm system is maintained, continuously monitored, includes a failure notification, monitored sensors on entry points and perimeter windows, is audible and capable of being disarmed remotely and all security system equipment is maintained in a secure location so as to prevent theft, loss, destruction and alterations. 16.8.2.10(A-C)

Notes: _____

OPERATIONAL REQUIREMENTS AND MINIMUM STANDARDS FOR PRODUCTION

Y	N	Description	Rule
<input type="checkbox"/>	<input type="checkbox"/>	The licensee’s right to use the quantity of water sufficient to meet the production facility’s needs remains in good standing.	16.8.7.27(A)(2)

Notes: _____

- Plumbing shall be of adequate size and design, adequately installed, and maintained to carry sufficient quantities of water to required locations throughout the facility, including sufficient quantities of water to properly convey sewage and liquid disposable waste from the facility. 16.8.2.27(A)(3)

Notes: _____

- All weighting or measuring devices that are used in the wholesale of cannabis be appropriately documented as having undergone certified registration and calibration that is in accordance with applicable requirements of the New Mexico department of agriculture. 16.8.2.27(A)(4)

Notes: _____

CULTIVATION PLAN

- A detailed premises diagram showing all cultivation activity areas, boundaries, and dimensions in feet. 16.8.2.27(B)(1)

Notes: _____

- Square foot measurement of mature cannabis plant cultivation area(s), including aggregate square footage if the mature cannabis plant cultivation areas are noncontiguous. 16.8.2.27(B)(2)

Notes: _____

- Area(s) outside of the mature cannabis plant cultivation areas where only immature plants shall be maintained, if applicable. 16.8.2.27(B)(3)

Notes: _____

- Designated pesticide and other agricultural chemical storage area(s). 16.8.2.27(B)(4)

Notes: _____

Designated processing area(s) if the licensee will process on site. 16.8.2.27(B)(5)

Notes: _____

Designated packaging area(s) if the licensee will package products on site. 16.8.2.27(B)(6)

Notes: _____

Designated composting area(s) if the licensee will compost plant or cannabis waste on site. 16.8.2.27(B)(7)

Notes: _____

Designated secured area(s) for cannabis waste if different than composting area(s). 16.8.2.27(B)(8)

Notes: _____

Designated area(s) for harvested cannabis storage. 16.8.2.27(B)(9)

Notes: _____

Designated seed production area(s) which may contain mature plants for nursery purposes only. 16.8.2.27(B)(10)

Notes: _____

Lighting

For indoor and mixed-light cultivation, a licensee shall create and maintain a lighting diagram, which shall include the following: 16.8.2.27©

- location of all lights in the cannabis plant cultivation area(s).
- maximum wattage, or wattage equivalent, of each light.

Notes: _____

Pest Management

Licensees shall create and maintain a pest management plan, which shall include product name and active ingredient(s) of all pesticides to be applied to cannabis during any stage of plant growth. Licensees are encouraged to create and implement integrated pest management protocols, including chemical, biological, and cultural methods to control or prevent the introduction of pests on the cultivation site. 16.8.2.27(D)

Notes: _____

Safety and health requirements

All equipment, implements, and fixtures that are used for the production of cannabis shall be used exclusively for the production of cannabis and meet sanitation and safety standards required by the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, division rules, and any other state or federal laws. 16.8.2.27(F)(1)

Notes: _____

Production is conducted in a manner that does not allow cross-contamination from chemical or biological hazards. 16.8.2.27(F)(2)

Notes: _____

Hand-washing facilities are provided that are adequate, accessible, furnished with running water at a suitable temperature, conveniently located in indoor production facilities, in restrooms, and wherever good sanitary practices require employees to wash or sanitize their hands, and stocked with effective hand-cleaning and sanitizing preparations, and sanitary towel service or suitable drying devices. 16.8.2.27(F)(3)

Notes: _____

Operating systems for waste disposal are maintained in an adequate manner so that they do not constitute a source of contamination in areas where cannabis is exposed. 16.8.2.27(F)(6)

Notes: _____

Water damage is properly and timely treated to protect health and safety of employees and the public, and that fiberglass and other insulation material is not exposed. 16.8.2.27(F)(7)

Notes: _____

Adequate safety-type lighting in all areas where cannabis is produced or stored, if applicable, and where equipment is cleaned. 16.8.2.27(F)(8)

Notes: _____

Rubbish is disposed of so as to minimize the development of odor, minimize the potential for the waste becoming an attractant and harborage, or breeding place for pests. 16.8.2.27(F)(9)

Notes: _____

Premises, fixtures, and physical facilities where cannabis or cannabis products are produced are maintained to ensure the health and safety of employee and the public. 16.8.2.27(F)(10)

Notes: _____

Contact surfaces, including utensils and equipment used for preparation of cannabis or cannabis products, are cleaned and sanitized as frequently as necessary to protect against contamination. 16.8.2.27(F)(11)

Notes: _____

Toxic cleaning compounds, sanitizing agents, and pesticide chemicals shall be identified, held, and stored in a manner that protects against contamination of cannabis or cannabis products and that otherwise satisfies the requirements of this rule. 16.8.2.27(F)(13)

Notes: _____

Storage and transportation of cannabis and cannabis products is accomplished under conditions that will maintain security and protect the cannabis or cannabis products against physical, chemical, and microbial contamination, as well as against deterioration of the cannabis or cannabis products and the container. 16.8.2.27(F)(14)

Notes: _____

- | | | | |
|--------------------------|--------------------------|--|------------------|
| <input type="checkbox"/> | <input type="checkbox"/> | That there is sufficient space for placement of equipment and storage of material as is necessary for the maintenance of sanitary operations for production of cannabis. | 16.8.2.27(F)(15) |
|--------------------------|--------------------------|--|------------------|

Notes: _____

POLICIES AND PROCEDURES

- | Y | N | Description | Rule |
|--------------------------|--------------------------|---|--------------------|
| <input type="checkbox"/> | <input type="checkbox"/> | Protocols to ensure that cannabis or cannabis products are transported and stored in a manner that prevents degradation, contamination, tampering, or diversion are maintained. | 16.8.2.26(A)(1)(f) |

Notes: _____

- | | | | |
|--------------------------|--------------------------|---|-----------|
| <input type="checkbox"/> | <input type="checkbox"/> | Chain of custody procedures and documentation requirements to ensure appropriate tracking and tracing of cannabis and cannabis products are maintained with a paper-based or electronic form that documents the possession of cannabis or cannabis products, and includes: the originating location; the time and date of transfer; the size, number of boxes, and number of pieces; the internal batch or lot numbers, (and if different, the track and trace batch or lot numbers); and a dated signature of the person receiving the products. | 16.8.2.12 |
|--------------------------|--------------------------|---|-----------|

Notes: _____

- | | | | |
|--------------------------|--------------------------|---|-----------------|
| <input type="checkbox"/> | <input type="checkbox"/> | For samples, in addition to the above, chain of custody procedures include: the types of containers, mode of collection, the authorized individual who collected the sample, the date and time of collection, preservation, and requested analyses of the sample and security requirements to ensure security and the safety of cannabis and cannabis products and transport personnel. | 16.8.2.11(A)(6) |
|--------------------------|--------------------------|---|-----------------|

Notes: _____

EMPLOYEE TRAINING

- | Y | N | Description | Rule |
|--------------------------|--------------------------|---|-----------------|
| <input type="checkbox"/> | <input type="checkbox"/> | All personnel present at the premises are provided information and training that, at minimum, covers, within 30 days of the start of employment: <ul style="list-style-type: none"> <input type="checkbox"/> Health and safety hazards. <input type="checkbox"/> Hazard communication training for all solvents or chemicals used at the licensed premises and as described in the safety data sheet for each solvent or chemical. <input type="checkbox"/> Training requirements for the proper use of health and safety measures and controls. <input type="checkbox"/> Emergency procedures. <input type="checkbox"/> Security procedures. <input type="checkbox"/> Record keeping requirements. | 16.8.2.26(B)(1) |

Notes: _____

Training documentation

- | | | |
|--------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | <ul style="list-style-type: none"> <input type="checkbox"/> a list of all personnel at the premises, including at minimum, name and job duties of each. <input type="checkbox"/> documentation of training topics and dates of training completion for all personnel. <input type="checkbox"/> Dates of refresher training completion for all personnel. <input type="checkbox"/> The signature of verifying receipt and understanding of each training or refresher training completed. |
|--------------------------|--------------------------|--|

Notes: _____

- | | | | |
|--------------------------|--------------------------|---|-----------------|
| <input type="checkbox"/> | <input type="checkbox"/> | A licensee, or employee, involved in the handling, transportation, manufacture, extraction, testing, or packaging of cannabis products must successfully complete a food handler course accredited by the American National Standards Institute (ANSI) prior to conducting any related activities. Such training shall be maintained while employed under a manufacturing licensee. The licensee shall obtain documentation evidencing the fulfillment of this requirement. | 16.8.2.26(B)(2) |
|--------------------------|--------------------------|---|-----------------|

Notes: _____

RECALL, REMEDIATION, AND WASTAGE

- | | | | |
|--------------------------|--------------------------|--|-----------|
| <input type="checkbox"/> | <input type="checkbox"/> | Written Procedures for recalling cannabis products that have been sold or otherwise distributed to the public or other cannabis establishments are available upon request. | 16.8.2.11 |
|--------------------------|--------------------------|--|-----------|

Notes: _____

- | | | | |
|--------------------------|--------------------------|--|--------------------|
| <input type="checkbox"/> | <input type="checkbox"/> | Procedures for remedial measures to bring cannabis or cannabis products into compliance with division standards or destruction of a tested batch of cannabis or cannabis products if the testing samples from the tested batch indicate noncompliance with applicable health and safety standards. | 16.8.2.34(A)(1)(h) |
|--------------------------|--------------------------|--|--------------------|

Notes: _____

- | | | | |
|--------------------------|--------------------------|---|--------------|
| <input type="checkbox"/> | <input type="checkbox"/> | Cannabis waste: Licensees shall create and maintain cannabis waste procedures meeting the requirements set forth in 16.8.2.22 NMAC. | 16.8.2.27(E) |
|--------------------------|--------------------------|---|--------------|

Notes: _____

FINISHED PRODUCT PACKAGING AND LABELING

- | Y | N | Description | Rule |
|--------------------------|--------------------------|---|--------------|
| <input type="checkbox"/> | <input type="checkbox"/> | Branding is not designed to be appealing to a child and does not contain symbols, images, or resemble a product typically marketed to minors. | 16.8.3.8 (C) |

Notes: _____

- | | | | |
|--|--|--|-----------------|
| | | Containers are child-resistant (except containers with cannabis flower). If the product is multiple use, or contains multiple servings, it is also packaged in a container that is resealable and continually child resistant. | 16.8.2.12(A)(3) |
|--|--|--|-----------------|

Notes: _____

- | | | | |
|--|--|---|-----------------|
| | | Cannabis or cannabis products for sale have undergone laboratory testing as required. | 16.8.2.40(G)(d) |
|--|--|---|-----------------|

Notes: _____


FINISHED PRODUCT PACKAGING AND LABELING REVIEW

Product packaging and labeling complies with division rules and regulations and the cannabis or cannabis product complies with all applicable requirements. 16.8.2.40(G)(1)(e-f)

<input type="checkbox"/> Y <input type="checkbox"/> N	#1	Product Name	BioTrack ID	Product Type
Notes: _____				

<input type="checkbox"/> Y <input type="checkbox"/> N	#2	Product Name	BioTrack ID	Product Type
Notes: _____				

<input type="checkbox"/> Y <input type="checkbox"/> N	#3	Product Name	BioTrack ID	Product Type
Notes: _____				

<p>Product Packaging Rules 16.8.3(12)(13)(14)</p> <ul style="list-style-type: none"> ▪ Includes a child resistant mechanism ▪ Not damaged or compromised ▪ Resealable (flower) ▪ Food grade or GRAS container (edibles, topicals, seeds) ▪ Compostable, recyclable or made from recycled materials ▪ (Recreational edibles) shall not exceed 10 mg THC per serving or 100 mg total THC per container ▪ (Medical edibles) identified as Medical Use Only do not exceed 50 mg THC per serving ▪ (Edibles) identify individual servings ▪ (Liquid products) single serving only Or has a mechanism that identifies single servings <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>CCD DIVISION APPROVED LOGO:</p>  </div>	<p>Product Labeling Rules 16.8.3.9 (A)(H)</p> <ul style="list-style-type: none"> ▪ Printed on or affixed to package ▪ Unobstructed and conspicuous ▪ QR Code links directly to required product information <p>Label Shall Not Contain 16.8.3.9(I)</p> <ul style="list-style-type: none"> ▪ Words associated with products for minors including: "Candy" or "Candies" Cartoons, Celebrities, or Celebrity Likeness ▪ Advertising or Marketing ▪ Misleading or Untruthful Statements <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>Seeds and Immature plants 16.8.3.10</p> <ul style="list-style-type: none"> ▪ Potency potential, laboratory confirmed (of the parent cannabis plant) ▪ Division approved THC! logo ▪ Net quantity (Seeds) <p><small>*ADDITIONAL REQUIREMENTS REFERENCE: NMDA SEED LAW 76-10-13</small></p> </div>	<p>Label Must Contain 16.8.3.9(K)</p> <ul style="list-style-type: none"> ▪ Product Identity in Bold * * ▪ Net Qty, Weight, or Volume * * ▪ Potency THCA & CBDA * * (required if detected) ▪ Division Approved Logo * * ▪ Must Be Refrigerated (Perishable or Time/Temp- Edibles/topical) ▪ "For use only by adults 21 and older. Keep out of reach of children * *. Do not drive... or operate machinery... BE CAUTIOUS. Cannabinoid edibles can take up to two hours or more to take effect." * * <p>Informational Panel or QR Code 16.8.3.9(L)</p> <table border="0" style="width: 100%;"> <tr> <td style="vertical-align: top;"> <ul style="list-style-type: none"> ▪ Manufacturer Name * * ▪ Manufacturer License # * * ▪ Pesticides Used by Producer ▪ Date manufactured ▪ Ingredient List ▪ Active Ingredients ▪ Contains Allergens Statement ▪ Nutritional Information ▪ Poison Control Center # </td> <td style="vertical-align: top;"> <ul style="list-style-type: none"> ▪ Expiration Date ▪ Track and Trace ID Number * * ▪ Solvents, Processing Aids, Chemicals used ▪ "This product is not approved by the FDA..." </td> </tr> </table>	<ul style="list-style-type: none"> ▪ Manufacturer Name * * ▪ Manufacturer License # * * ▪ Pesticides Used by Producer ▪ Date manufactured ▪ Ingredient List ▪ Active Ingredients ▪ Contains Allergens Statement ▪ Nutritional Information ▪ Poison Control Center # 	<ul style="list-style-type: none"> ▪ Expiration Date ▪ Track and Trace ID Number * * ▪ Solvents, Processing Aids, Chemicals used ▪ "This product is not approved by the FDA..."
<ul style="list-style-type: none"> ▪ Manufacturer Name * * ▪ Manufacturer License # * * ▪ Pesticides Used by Producer ▪ Date manufactured ▪ Ingredient List ▪ Active Ingredients ▪ Contains Allergens Statement ▪ Nutritional Information ▪ Poison Control Center # 	<ul style="list-style-type: none"> ▪ Expiration Date ▪ Track and Trace ID Number * * ▪ Solvents, Processing Aids, Chemicals used ▪ "This product is not approved by the FDA..." 			

* Requirements if surface area is less than 2" squared 16.8.3.9 (N) * QR Code, peel back or accordion label must contain all other required information

* Required for edibles without sufficient space 16.8.3.9 (M)

INSPECTION REPORT

- No violations observed
- Violations marked, notes included, **corrective action required.**

Total Number of Violations: _____

Signature	Date
Inspector:	
Facility Representative:	

CORRECTIVE ACTION PLAN

A corrective plan of action shall be submitted to the CCD within five (5) business days from the receipt of this inspection report if violations are noted.

Submit the Corrective Action Plan to the CCD compliance email:

CCD.Compliance@RLD.NM.GOV

The email subject line shall include:

- "Corrective Action Plan"
- Name of business
- The date

Example: Corrective Action Plan CCD 10/10/2022

The Corrective Action Plan shall include:

- The steps taken to address the violation(s)
- The name of the staff person, contractor, or individual responsible for completing the corrective action
- The date or anticipated date of completion (No more than 30 days)

Submit proof to the CCD compliance email by providing photos, videos, or completed documents to be reviewed by staff as violations are corrected and no later than the anticipated date of completion. (If more than 30 days are required to complete corrective actions contact CCD to request approval for an extension).

Once all violations have been rectified and the CCD has confirmed all violations to be in compliance, the licensee will receive a CLOSEOUT LETTER in which documents that all violations have been rectified and that the facility is in compliance and in good standing for license renewals.

Failure to submit corrective action plans and/or proof of compliance may result in a revocation or suspension of your license and/or fees and fines. See, Division Action **16.8.12.11**

**All rules referenced in the CCD inspection checklist and in the guidance below refer to NMAC Article 16 Chapter 8.
Full text of the CCD rules and regulations are available at: <https://www.rld.nm.gov/cannabis/>*

NOTICE PROVIDED TO LICENSEE/REPRESENTATIVE

GENERAL

Description	Rule
A complete and detailed premises diagram must be maintained on the licensed premises and shall be used by the division to determine whether the premises meets CCD requirements. The diagram must show the following: <ul style="list-style-type: none">the boundaries of the propertythe dimensions of each area that cannabis plants will be cultivatedthe location(s) and the dimensions of other areas where other horticulture will be cultivatedany equipment to be usedentrances and exits, interior partitions, location of lights in the cannabis plant cultivation area(s) and the maximum wattage or wattage equivalent walls, rooms, windows, and doorwaysa description of the principal activity conductedwhere all cameras are located with a number to each camera for identification purposesmust be to scale and not contain any highlighting, markings in black-and-white print.	16.8.2.24(A-E)
If the proposed premises consists of only a portion of a property, the diagram must be labeled indicating which part of the property is the proposed premises and what the remaining property is used for.	16.8.2.24(F)
If the proposed premises consists of only a portion of a property that will contain two or more licensed premises, then the diagram shall be supplemented with a description of how two or more licensed premises will be managed on the property.	16.8.2.24(G)
If a proposed premise is located on only a portion of a property that also includes a residence, the diagram shall clearly show the designated buildings for the premises and the residence.	16.8.2.24(H)
Cannabis wastage must be rendered unusable and unrecognizable by grinding and incorporating into ground material so the resulting mixture is at least 50% non-cannabis. It must be held in a secure location for 72 hours prior to being wasted. Wastage must be recorded recording must be retained for no less than 120 days and be available to the division upon request.	16.8.2.15
Any perimeter entry point must have lighting sufficient for observers to see, and cameras to record, any activity within 20 feet of the gate or entry (a motion detection lighting system may be employed to light required areas in low-light conditions).	16.8.2.10(L)
All external entrances to indoor facilities must be able to be locked and all perimeter doors and windows of indoor facilities must be in good condition and lockable.	16.8.2.10(M)

LIMITED ACCESS AREAS

Description	Rule
Only authorized employees of the licensee and other authorized individuals have access to the limited access areas of the licensed premises.	16.8.2.10(J)
A daily record log, which may be a sign-in and sign-out sheet at the entrance of a premises, of all authorized employees and authorized individuals that are not employees of the licensee who enter the limited-access areas is maintained.	16.8.2.10(J)(2)
Limited-Access record logs are kept for a minimum of 90 days, or 12 months if a theft or security incident occurs and must be made available to the division within 48 hours upon request.	16.8.2.10(J)(3)
Entrances to all limited-access areas have a solid door, or if appropriate, a gate adequate to block access, and a lock meeting the requirements set forth in subsection I of this section, and unless prohibited by building or fire codes, the entrance shall remain locked when not in use during regular business hours.	16.8.2.10(J)(4)
Posting of a sign identifies all limited-access areas (12" x 12" and states "Do Not Enter - Limited Access Area Access Limited to Authorized Personnel Only").	16.8.2.10(J)(5)
Employee identification badges are visible displayed at all times while present within a limited-access area are laminated or plastic-coated and include: <ul style="list-style-type: none">the licensee's "doing business as" name and license numberthe individual's first namean employee number exclusively assigned to that employee for identification purposesa color photograph of the employee that clearly shows the full front of the employee's face).	16.8.2.10(K)
Visitor identification badges are obtained by other authorized individuals prior to entering a limited-access areas.	16.8.2.10(J)(7)

Policies and Procedures

Description	Rule
Minimum policy and procedure requirements: A producer shall develop, implement, and maintain on the licensed premises, standard policies and procedures, which shall include the following: <ul style="list-style-type: none">cannabis testing criteria and proceduresemployee health and safety training materialstraining requirements for the proper use of health and safety measures and controlsrecordkeeping and chain of custody protocols for transportation of cannabis or cannabis product samples to a cannabis testing laboratory, consistent with 16.8.2.12 NMAC and 16.8.2.13 NMACrecordkeeping and chain of custody protocols for transportation of cannabis or cannabis products to another cannabis establishment for any purpose;protocols for testing sample collection that ensures accurate test results	16.8.2.26(A)(1)
employee policies and procedures to address the following minimum requirements: (a) adherence to state and federal laws; (b) responding to an emergency, including robbery or a serious accident; (c) alcohol and drug-free workplace policies and procedures; (d) safety and security procedures; (e) occupational safety; (f) crime prevention techniques; and (g) if applicable, confidentiality laws, including the Health Insurance Portability and Accountability Act of 1996; and (3) documentation prepared for each employee and statements signed by employees indicating [the topics discussed, names and titles of presenters, and the date, time, and place the employee received <ul style="list-style-type: none">said receipt of policies and procedures	16.8.2.26(A)(2)
Documentation prepared for each employee and statements signed by employees indicating [the topics discussed, names and titles of presenters, and the date, time, and place the employee received said receipt of policies and procedures	16.8.2.26(A)(3)
Retention of training documentation: Licensees shall maintain documentation of an employee's training for a period of two years for current employees and at least six months after the termination of an employee's employment	16.8.2.26(D)

Required Testing

Description	Rule
A cannabis producer, cannabis producer microbusiness, vertically integrated cannabis establishment, or integrated cannabis microbusiness shall arrange for and pay for the testing specified in 16.8.7.15(3) on Table 1, Required Testing of Cannabis Products, below, of any cannabis flower and trim that it harvests prior to: <ul style="list-style-type: none">packaging for retail saletransfer to another cannabis establishment for the purposes of retail saleretail sale; ordelivery to a patient or consumer.	16.8.7.15 (3)

Training Documentation

Description	Rule
A list of all personnel at the premises, (name and job duties of each; documentation of training topics and dates of training completion for all personnel).	16.8.2.39(C-D)
The signature of each employee verifying receipt and understanding of each.	16.8.2.39(C)(1)(c)
Retention: Two years for current employees and at least six months after the termination of an employee's employment.	16.8.2.39(C)(1)(d)
Dates of refresher training completion for all personnel (Annual).	16.8.2.39(D)

ADVERTISING AND MARKETING

Description	Rule
All advertisements in print and digital communications shall only be placed in areas where at least seventy percent of the audience is reasonably expected to be 21 years of age or older.	16.8.3.8(A)(1-2)
Required statement: <ul style="list-style-type: none"> ● "Please Consume Responsibly" 	16.8.3.8(A)(3)
Required warnings: <ul style="list-style-type: none"> ● For use only by adults 21 and older ● Keep out of reach of children ● This product is not approved by the FDA to treat, cure, or prevent any disease. FDA has not evaluated this product for safety, effectiveness, and quality ● Do not drive a motor vehicle or operate machinery while under the influence of cannabis ● There may be long term adverse health effects from consumption of cannabis, including additional risks for women who are or may become pregnant or are breastfeeding. 	16.8.3.8(A)(3)
Advertising and marketing activities of cannabis products shall not: Be on billboards, posters, handbills or other visual media that are located or can be viewed within 300 feet of a school, daycare center or church; Contain symbols or images, including a celebrity or celebrity likeness, that are commonly used to market products to minors; Use predatory marketing or advertising practices targeting minors Be designed to mimic any other product brand; Promote the over consumption of cannabis or cannabis products; Depict the actual consumption of cannabis or cannabis products.	16.8.3.8(B)

Notes: _____



NEW MEXICO CANNABIS CONTROL DIVISION MANUFACTURING FACILITY INSPECTION CHECKLIST

General Inspection Complaint Inspection

LICENSE INFORMATION

CCD License ID Number:	Licensee Name:
Business Name:	UBI Number:
Premises Physical Address:	
Date of Inspection:	Inspection Time:
Inspectors:	
Person In Charge:	Job Title:

Additional License Type(s)

- | | |
|---|---|
| <input type="checkbox"/> Manufacturing Class: _____ | <input type="checkbox"/> VICE |
| <input type="checkbox"/> Consumption Type: _____ | <input type="checkbox"/> Microbusiness |
| <input type="checkbox"/> Production | <input type="checkbox"/> Integrated Microbusiness |

**ALL ITEMS MARKED OUT OF COMPLIANCE REPRESENT VIOLATIONS AND MUST BE CORRECTED.
FAILURE TO CORRECT A VIOLATION MAY RESULT IN DIVISION ACTION.**

Y In compliance, all requirements for this item are met

N Out of Compliance, needs correction (notes required)

GENERAL LICENSING REQUIREMENTS

Y	N	Description	Rule
<input type="checkbox"/>	<input type="checkbox"/>	CCD License is displayed in an area that is within plain sight of the public.	16.8.2.8 (I)
<input type="checkbox"/>	<input type="checkbox"/>	The facility maintains the required license(s) for the operations conducted on site. Facility operations include: <input type="checkbox"/> Commercial Retail <small>16.8.2.35(B)</small> <input type="checkbox"/> Medical Only <input type="checkbox"/> Consumption <small>16.8.2.49 (A)(1)(2)</small> Type: _____ <input type="checkbox"/> Processor Class: ____ <small>16.8.2.29</small> <input type="checkbox"/> Production <small>16.8.2.21(C)</small> <input type="checkbox"/> Other: _____	

Notes: _____

Prohibited Practices

Y	N	Description	Rule
<input type="checkbox"/>	<input type="checkbox"/>	Except as provided in Subsection BB of 16.8.2.8 NMAC, no cannabis manufacturer establishment licensee may produce cannabis, courier cannabis or cannabis products, or engage in the retail sale of cannabis or cannabis products unless the licensee has properly applied for, and the division has approved, the applicable license type required for those activities.	16.8.2.29(D)

Notes: _____

<input type="checkbox"/>	<input type="checkbox"/>	Prohibited additives: A manufacturer shall not manufacture or distribute a product that is intended to be consumed by inhalation that includes polyethylene glycol, polypropylene glycol, vitamin E acetate, or medium chain triglycerides. A manufacturer shall not combine nicotine, caffeine, or any other addictive substance with a cannabis product. This prohibition shall not apply to the combination of cannabis with sugar, or a product in which caffeine is naturally occurring, such as coffee, tea, or chocolate.	16.8.2.29(E)
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SECURITY AND LIMITED-ACCESS REQUIREMENTS

Y	N	Description	Rule
<input type="checkbox"/>	<input type="checkbox"/>	All areas where cannabis and cannabis products are stored or held, weighted, packaged, manufactured, disposed of, wastage and all point-of-sale areas, take place in a designated limited-access area that complies with the security requirements to ensure that the licensed premises, including a vault are secure.	16.8.2.8 (I) (I) LOCKS (J)(2) RECORD LOGS (J)(5) POSTED SIGNS (K) ID BADGES (L) LIGHTING (M) DOORS, WINDOWS

Notes: _____

<input type="checkbox"/>	<input type="checkbox"/>	A digital surveillance system is maintained and clearly and effectively records images 24 hours or is motion activated, is recording in all required areas, recordings are kept for a minimum of 30 days, is stored in a manner to protect from theft or tampering, recorded images clearly and accurately display the time and date , and it is equipped with a failure notification system.	16.8.2.10(D-G)
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Notes: _____

SECURITY AND LIMITED ACCESS REQUIREMENTS CONT.

<input type="checkbox"/>	<input type="checkbox"/>	An operational security alarm system is maintained, continuously monitored, includes a failure notification, monitored sensors on entry points and perimeter windows, is audible and capable of being disarmed remotely and all security system equipment is maintained in a secure location so as to prevent theft, loss, destruction and alterations.	16.8.2.10(A-C)
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Notes: _____

OPERATIONAL REQUIREMENTS AND MINIMUM STANDARDS FOR MANUFACTURING

Y	N	Description	Rule
<input type="checkbox"/>	<input type="checkbox"/>	Weighting or measuring devices that are used in the wholesale of cannabis be appropriately documented as having undergone certified registration and calibration that is in accordance with applicable requirements of the New Mexico department of agriculture	16.8.2.34(A)(3)

Notes: _____

<input type="checkbox"/>	<input type="checkbox"/>	A track and trace system account is activated and functional and comprehensive records are maintained to ensure adequate inventory tracking of any cannabis or cannabis products.	16.8.7.9(A)
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Notes: _____

Cannabis Extraction

Y	N	Description	Rule
<input type="checkbox"/>	<input type="checkbox"/>	Permissible extractions: cannabis extraction shall only be conducted using the following methods: <ul style="list-style-type: none"> <input type="checkbox"/> Mechanical extraction, such as dry screens, sieves, or presses, potable water and ice made from potable water, cryogenic or subzero manufacturing not involving a solvent, or pressure and temperature <input type="checkbox"/> Chemical extraction using a nonvolatile solvent such as a nonhydrocarbon-based or other solvent such as water, vegetable glycerin, vegetable oils, animal fats, or food-grade glycerin, (nonhydrocarbon-based solvents shall be food grade) <input type="checkbox"/> Chemical extraction using a division approved closed loop extraction system; or <input type="checkbox"/> A method authorized by the division pursuant to Paragraph 16.8.2.34(B)(2) 	16.8.2.34(B)(1)

Notes: _____

<input type="checkbox"/>	<input type="checkbox"/>	Extraction equipment shall be used and operated in accordance with its intended manufacturer use and design.	16.8.2.34(B)(3)
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Notes: _____

<input type="checkbox"/>	<input type="checkbox"/>	Current safety data sheets shall be kept on the premises for all chemicals used in the extraction process.	16.8.2.34(B)(4)
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Notes: _____

Volatile Solvent Extractions:

Y N

<input type="checkbox"/>	<input type="checkbox"/>	Hydrocarbon-based solvents shall be at least 99.5 percent purity with a certificate of analysis from the manufacturer to confirm purity.	16.8.2.34(C)(1)
		Butane and Propane	

Notes: _____

<input type="checkbox"/>	<input type="checkbox"/>	Ethyl alcohol must be food grade, and non-denatured in composition.	16.8.2.34(C)(2)
		Ethanol (aka Drinking Alcohol/Everclear)	

Notes: _____

<input type="checkbox"/>	<input type="checkbox"/>	Solvents shall be free of odorants, bitterants, or other additives and stored, handled, and disposed of in accordance with local, state, and federal regulations.	16.8.2.34(C)(3)
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Notes: _____

<input type="checkbox"/>	<input type="checkbox"/>	All extractions shall be performed in a closed loop extraction system, unless approved by the division, as described in Subsection B of 16.8.2.34 NMAC	16.8.2.34(C)(4)
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Notes: _____

<input type="checkbox"/>	<input type="checkbox"/>	Licensees shall not use ignition sources including but not limited to a heat gun or any open flame source next to extraction equipment that utilizes volatile solvents, including in rooms designated solely for extraction or in areas that contain or uses flammable liquids and gasses.	16.8.2.34(C)(5)
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Notes: _____

Closed-Loop Extraction System Requirements:

Y N

16.8.2.34(D)

<input type="checkbox"/>	<input type="checkbox"/>	Closed loop systems, other equipment used, the extraction operation, and facilities must be approved for use by the local fire code official and meet any required fire, safety, and building code requirements specified in: <ul style="list-style-type: none"> • National Fire Protection Association (NFPA) standards • International Building Code (IBC) • International Fire Code (IFC) • Other applicable standards including all applicable fire, safety, and building codes related to the processing, handling and storage of the applicable solvent or gas 	16.8.2.34(D)(1)
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Notes: _____

A list of the name(s) of all trained employees must be prominently displayed inside or immediately outside of the extraction area 16.8.2.34(D)(3)

Notes: _____

POLICIES AND PROCEDURES

Y	N	Description	Rule
<input type="checkbox"/>	<input type="checkbox"/>	Protocols to ensure that cannabis or cannabis products are transported and stored in a manner that prevents degradation, contamination, tampering, or diversion are maintained.	16.8.2.33(A)(1)(d)

Notes: _____

<input type="checkbox"/>	<input type="checkbox"/>	Chain of custody procedures and documentation requirements to ensure appropriate tracking and tracing of cannabis and cannabis products are maintained with a paper-based or electronic form that documents the possession of cannabis or cannabis products, and includes: the Originating location; the time and date of transfer; the size, number of boxes, and number of pieces; the internal batch or lot numbers, (and if different, the track and trace batch or lot numbers); and a dated signature of the person receiving the products.	16.8.2.12
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Notes: _____

Cannabis Quality Assurance Testing Criteria and Procedures: 16.8.2.34(D)

Y N

<input type="checkbox"/>	<input type="checkbox"/>	Representative sampling and analytical testing of cannabis or cannabis products for contaminants prior to wholesale or transfer to another cannabis establishment	16.8.2.33(A)(1)(a)
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Notes: _____

<input type="checkbox"/>	<input type="checkbox"/>	Recordkeeping and chain of custody protocols for transportation of cannabis or cannabis product samples to a cannabis testing laboratory	16.8.2.33(A)(1)(b)
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Notes: _____

<input type="checkbox"/>	<input type="checkbox"/>	Recordkeeping and chain of custody protocols for transportation of cannabis or cannabis products to another cannabis establishment for any purpose	16.8.2.33(A)(2)(c)
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Notes: _____

<input type="checkbox"/>	<input type="checkbox"/>	Protocols to ensure that cannabis or cannabis products, including any samples of cannabis or cannabis products, are transported and stored in a manner that prevents degradation, contamination, tampering, or diversion	16.8.2.33(A)(1)(d)
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Notes: _____

Protocols for testing sample collection that ensures accurate test results 16.8.2.33(A)(1)(e)

Notes: _____

RECALL, REMEDIATION, AND WASTAGE

Written Procedures for recalling cannabis products that have been sold or otherwise distributed to the public or other cannabis establishments are available upon request. 16.8.2.11

Notes: _____

Procedures for destruction of a tested batch of cannabis or cannabis products if the testing samples from the tested batch indicate noncompliance with applicable health and safety standards 16.8.2.34(A)(1)(f)

Notes: _____

EMPLOYEE TRAINING

Y	N	Description	Rule
<input type="checkbox"/>	<input type="checkbox"/>	All personnel present at the premises are provided information and training that, at minimum, covers, within 30 days of the start of employment: <ul style="list-style-type: none"><input type="checkbox"/> Health and safety hazards;<input type="checkbox"/> Security procedures;<input type="checkbox"/> Hazard communication training for all solvents or chemicals used at the licensed premises and as described in the safety data sheet for each solvent or chemical<input type="checkbox"/> Training requirements for the proper use of health and safety measures and controls<input type="checkbox"/> Emergency procedures<input type="checkbox"/> Security procedures<input type="checkbox"/> Record keeping requirements	16.8.2.33(B)(1)

Notes: _____

Prior to independently engaging in any cannabis manufacturing process, including but not limited to extraction 16.8.2.33(B)(2)

- An overview of the process and standard operating procedure(s)
- Quality control procedures
- Hazard analysis and control procedures as appropriate
- Proper and safe usage of equipment or machinery
- Safe work practices applicable to an employee's job tasks, including
- Appropriate use of any necessary safety or sanitary equipment
- Cleaning and maintenance requirements
- Emergency operations, including shutdown
- Any additional information reasonably related to an employee's job duties.

Notes: _____

A licensee, or employee, involved in the handling, transportation, manufacture, extraction, testing, or packaging of cannabis products must successfully complete a food handler course accredited by the American national standards institute (ANSI) prior to conducting any related activities. Such training shall be maintained while employed under a manufacturing licensee. The licensee shall obtain documentation evidencing the fulfillment of this requirement

16.8.2.33(B)(3)

Notes: _____

FINISHED PRODUCT PACKAGING AND LABELING

Y	N	Description	Rule
<input type="checkbox"/>	<input type="checkbox"/>	Branding is not designed to be appealing to a child and does not contain cartoons, symbols, images, or resemble a product typically marketed to minors.	16.8.3.8 (C)

Notes: _____

Containers are child-resistant (except containers with cannabis flower). If the product is multiple use, or contains multiple servings, it is also packaged in a container that is resealable and continually child resistant.

16.8.2.12(A)(3)

Notes: _____

FINISHED PRODUCT PACKAGING AND LABELING REVIEW

Product packaging and labeling complies with division rules and regulations and the cannabis or cannabis product complies with all applicable requirements. 16.8.2.40(G)(1)(e-f)

	Y	N		Product Name	BioTrack ID	Product Type
Notes:	<input type="checkbox"/>	<input type="checkbox"/>	#1	_____	_____	_____
Notes:	<input type="checkbox"/>	<input type="checkbox"/>	#2	_____	_____	_____
Notes:	<input type="checkbox"/>	<input type="checkbox"/>	#3	_____	_____	_____


<p>Product Packaging Rules 16.8.3(12)(13)(14)</p> <ul style="list-style-type: none"> Includes a child resistant mechanism Not damaged or compromised Resealable (flower) Food grade or GRAS container (edibles, topicals, seeds) Compostable, recyclable or made from recycled materials (Recreational edibles) shall not exceed 10 mg THC per serving or 100 mg total THC per container (Medical edibles) identified as Medical Use Only do not exceed 50 mg THC per serving (Edibles) identify individual servings (Liquid products) single serving only Or has a mechanism that identifies single servings 	<p>Product Labeling Rules 16.8.3.9 (A)(H)</p> <ul style="list-style-type: none"> Printed on or affixed to package Unobstructed and conspicuous QR Code links directly to required product information <p>Label Shall Not Contain 16.8.3.9(I)</p> <ul style="list-style-type: none"> Words associated with products for minors including: "Candy" or "Candies" Cartoons, Celebrities, or Celebrity Likeness Advertising or Marketing Misleading or Untruthful Statements 	<p>Label Must Contain 16.8.3.9(K)</p> <ul style="list-style-type: none"> Product Identity in Bold ** Net Qty, Weight, or Volume * Potency THCA & CBDA ** (required if detected) Division Approved Logo ** Must Be Refrigerated (Perishable or Time/Temp- Edibles/topical) <ul style="list-style-type: none"> "For use only by adults 21 and older. Keep out of reach of children *. Do not drive... or operate machinery... BE CAUTIOUS. Cannabinoid edibles can take up to two hours or more to take effect." * <p>Informational Panel or QR Code 16.8.3.9(L)</p> <ul style="list-style-type: none"> Manufacturer Name ** Manufacturer License # ** Pesticides Used by Producer Date manufactured Ingredient List Active Ingredients Contains Allergens Statement Nutritional Information Poison Control Center # Expiration Date Track and Trace ID Number ** Solvents, Processing Aids, Chemicals used "This product is not approved by the FDA..."
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Seeds and Immature plants 16.8.3.10

- Potency potential, laboratory confirmed (of the parent cannabis plant)
- Division approved THC! logo
- Net quantity (Seeds)

***ADDITIONAL REQUIREMENTS REFERENCE: NMMA SEED LAW 76-10-13**

CCD DIVISION APPROVED LOGO:



* Requirements if surface area is less than 2" squared [16.8.3.9 \(N\)](#) * QR Code, peel back or accordion label must contain all other required information
 * Required for edibles without sufficient space [16.8.3.9 \(M\)](#)

INSPECTION REPORT

- No violations observed
- Violations marked, notes included, **corrective action required.**

Total Number of Violations: _____

Signature	Date
Inspector:	
Facility Representative:	

CORRECTIVE ACTION PLAN

A corrective plan of action shall be submitted to the CCD within five (5) business days from the receipt of this inspection report if violations are noted.

Submit the Corrective Action Plan to the CCD compliance email:

CCD.Compliance@RLD.NM.GOV

The email subject line shall include:

- "Corrective Action Plan"
- Name of business
- The date

Example: Corrective Action Plan CCD 10/10/2022

The Corrective Action Plan shall include:

- The steps taken to address the violation(s)
- The name of the staff person, contractor, or individual responsible for completing the corrective action
- The date or anticipated date of completion (No more than 30 days)

Submit proof to the CCD compliance email by providing photos, videos, or completed documents to be reviewed by staff as violations are corrected and no later than the anticipated date of completion. (If more than 30 days are required to complete corrective actions contact CCD to request approval for an extension).

Once all violations have been rectified and the CCD has confirmed all violations to be in compliance, the licensee will receive a CLOSEOUT LETTER in which documents that all violations have been rectified and that the facility is in compliance and in good standing for license renewals.

Failure to submit corrective action plans and/or proof of compliance may result in a revocation or suspension of your license and/or fees and fines. See, Division Action **16.8.12.11**

**All rules referenced in the CCD inspection checklist and in the guidance below refer to NMAC Article 16 Chapter 8.
Full text of the CCD rules and regulations are available at: <https://www.rld.nm.gov/cannabis/>*

NOTICE PROVIDED TO LICENSEE/REPRESENTATIVE

GENERAL

Description	Rule
A complete and detailed premises diagram must be maintained on the licensed premises and shall be used by the division to determine whether the premises meets CCD requirements. The diagram must show the following: <ul style="list-style-type: none">the boundaries of the propertythe dimensions of each area that cannabis will be stored and available to the publicany equipment to be usedentrances and exits, interior partitions, walls, rooms, windows, and doorwaysa description of the principal activity conductedwhere all cameras are located with a number to each camera for identification purposesmust be to scale and not contain any highlighting, markings in black-and-white print.	16.8.2.38
If the proposed premises consists of only a portion of a property, the diagram must be labeled indicating which part of the property is the proposed premises and what the remaining property is used for.	16.8.2.38(F)
If the proposed premises consists of only a portion of a property that will contain two or more licensed premises, then the diagram shall be supplemented with a description of how two or more licensed premises will be managed on the property.	16.8.2.38(G)
If a proposed premise is located on only a portion of a property that also includes a residence, the diagram shall clearly show the designated buildings for the premises and the residence.	16.8.2.38(H)
Cannabis wastage must be rendered unusable and unrecognizable by grinding and incorporating into ground material so the resulting mixture is at least 50% non-cannabis. It must be held in a secure location for 72 hours prior to being wasted. Wastage must be recorded recording must be retained for no less than 120 days and be available to the division upon request.	16.8.2.15
Any perimeter entry point must have lighting sufficient for observers to see, and cameras to record, any activity within 20 feet of the gate or entry (a motion detection lighting system may be employed to light required areas in low-light conditions).	16.8.2.10(L)
All external entrances to indoor facilities must be able to be locked and all perimeter doors and windows of indoor facilities must be in good condition and lockable.	16.8.2.10(M)

LIMITED ACCESS AREAS

Description	Rule
Only authorized employees of the licensee and other authorized individuals have access to the limited access areas of the licensed premises.	16.8.2.10(J)
A daily record log, which may be a sign-in and sign-out sheet at the entrance of a premises, of all authorized employees and authorized individuals that are not employees of the licensee who enter the limited-access areas is maintained.	16.8.2.10(J)(2)
Limited-Access record logs are kept for a minimum of 90 days, or 12 months if a theft or security incident occurs and must be made available to the division within 48 hours upon request.	16.8.2.10(J)(3)
Entrances to all limited-access areas have a solid door, or if appropriate, a gate adequate to block access, and a lock meeting the requirements set forth in subsection I of this section, and unless prohibited by building or fire codes, the entrance shall remain locked when not in use during regular business hours.	16.8.2.10(J)(4)
Posting of a sign identifies all limited-access areas (12" x 12" and states "Do Not Enter - Limited Access Area Access Limited to Authorized Personnel Only").	16.8.2.10(J)(5)
Employee identification badges are visible displayed at all times while present within a limited-access area are laminated or plastic-coated and include: <ul style="list-style-type: none">the licensee's "doing business as" name and license numberthe individual's first namean employee number exclusively assigned to that employee for identification purposesa color photograph of the employee that clearly shows the full front of the employee's face).	16.8.2.10(K)
Visitor identification badges are obtained by other authorized individuals prior to entering a limited-access areas.	16.8.2.10(J)(7)

Required Quality Assurance Testing

Description	Rule
A cannabis manufacturer, vertically integrated cannabis establishment, or integrated cannabis microbusiness shall arrange for and pay for the testing specified in Table 1 of any cannabis product, including but not limited to a concentrate or extract, that it manufactures prior to: <ul style="list-style-type: none"> • packaging for retail sale • transfer to another cannabis establishment for the purposes or retail sale; • retail sale; or • delivery to a qualified patient, primary caregiver or consumer. 	16.8.7.15(A)(2)

Training Documentation

Description	Rule
A list of all personnel at the premises, (name and job duties of each; documentation of training topics and dates of training completion for all personnel).	16.8.2.39(C-D)
The signature of each employee verifying receipt and understanding of each.	16.8.2.39(C)(1)(c)
Retention: Two years for current employees and at least six months after the termination of an employee’s employment.	16.8.2.39(C)(1)(d)
Dates of refresher training completion for all personnel (Annual).	16.8.2.39(D)

ADVERTISING AND MARKETING

Description	Rule
All advertisements in print and digital communications shall only be placed in areas where at least seventy percent of the audience is reasonably expected to be 21 years of age or older.	16.8.3.8(A)(1-2)
Required statement: <ul style="list-style-type: none"> • "Please Consume Responsibly" 	16.8.3.8(A)(3)
Required warnings: <ul style="list-style-type: none"> • For use only by adults 21 and older • Keep out of reach of children • This product is not approved by the FDA to treat, cure, or prevent any disease. FDA has not evaluated this product for safety, effectiveness, and quality • Do not drive a motor vehicle or operate machinery while under the influence of cannabis • There may be long term adverse health effects from consumption of cannabis, including additional risks for women who are or may become pregnant or are breastfeeding. 	16.8.3.8(A)(3)

Advertising and marketing activities of cannabis products shall not: Be on billboards, posters, handbills or other visual media that are located or can be viewed within 300 feet of a school, daycare center or church; Contain symbols or images, including a celebrity or celebrity likeness, that are commonly used to market products to minors; Use predatory marketing or advertising practices targeting minors Be designed to mimic any other product brand; Promote the over consumption of cannabis or cannabis products; Depict the actual consumption of cannabis or cannabis products. 16.8.3.8(B)

Notes: _____



Workers build greenhouses on Dineh Benally's cannabis farm near Estancia. Nadav Soroker/Searchlight New Mexico

A green light for Dineh Benally

A sensational raid three years ago put an end to his illegal marijuana empire on the Navajo Nation, manned by trafficking victims. But when Benally wanted to grow weed again, New Mexico said yes.

by **Ed Williams**

October 19, 2023

The northeast corner of the Navajo Nation is still dotted with abandoned greenhouses — the remnants of the federal government's largest marijuana busts, now tattered and sun-worn from years in the element

The trafficking victims who once toiled in the greenhouses — most of them Chinese laborers — are scattered across the country, their lives in shambles after a massive raid shut down the illegal business in 2020.

But as federal investigations near their third year without any charges filed, Dineh Benally, the Navajo cannabis entrepreneur who orchestrated the operation, appears no closer to facing arrest. Instead, he's expanding his marijuana business in New Mexico — again with the help of Chinese laborers, the Torrance County Sheriff's Department said.

Ever since receiving two **cultivation permits** from the New Mexico Regulation and Licensing Department, in October 2022, Benally has been working to convert an old pumpkin farm south of Estancia into a large marijuana grow site with about 100 greenhouses. Roughly 16 RVs are parked behind a locked metal gate at the property, closely resembling the trailers where Chinese workers in Shiprock slept after their shifts.

On Sept. 20, Searchlight New Mexico contacted the Regulation and Licensing Department to ask about its background-checking process. Why would someone associated with federal investigations into illegal cannabis and human trafficking be granted permits to start another operation? The agency was “not aware of the investigations into [Benally's] business prior to licensure,” an RLD spokesperson replied.

In the following weeks, the RLD sent compliance officers to visit Benally's new farm. They found eight alleged violations of the state's cannabis regulations, according to an Oct. 12 **notification letter** sent to Benally's company.

Among the listed violations: His farm “far exceeded” its legal plant count; there was “rubbish found throughout the facility” and “evidence of pests on cannabis plants”; he had “not conducted a single quality assurance test”; he hadn't developed required policies and procedures for employees; and the facility lacked mandatory security measures. If Benally doesn't correct the violations, he faces potential fines and the loss of his cannabis license.

Benally's attorney did not respond to Searchlight's email and phone requests for comment; efforts to reach Benally were also unsuccessful.





Rows of greenhouses at Dineh Benally's cannabis farm south of Estancia. Benally's previous ventures include a black-market cannabis operation on the Navajo Nation, where law enforcement authorities found a quarter million illegal marijuana plants, allegedly cultivated by scores of human trafficking victims. Nadav Soroker/Searchlight New Mexico

Shiprock and Navajo Nation 'deserve justice'

In the backdrop, the federal investigation into Benally's **black-market operation** in Shiprock continues to languish, creating intense frustration for Navajo law enforcement authorities. Because much of the case falls under federal jurisdiction, tribal prosecutors must defer to the U.S. Attorney.

"To date, nobody responsible for the harm caused to the Navajo Nation and to these workers by Benally and his associates' illegal marijuana operation has been prosecuted," Navajo Nation Attorney General Ethel Branch wrote in an emailed **statement** to Searchlight.

"This must change," she wrote. "The Navajo Nation and the Shiprock, New Mexico community deserve justice."

The U.S. Attorney for the District of New Mexico, which has jurisdiction over criminal investigations, declined to comment.

To people whose lives were upended by Benally's gambit, the outrage is palpable. While Benally and his partners pursued their **unlawful empire**, the Navajo Nation was being ravaged by COVID-19, Branch noted. "At one of our darkest hours, when Navajo law enforcement was focused day and night on responding to the COVID-19 pandemic, and our Navajo People faced the highest COVID-19 infection rates in the country, Benally and his associates took advantage of the Nation, and tried to personally enrich themselves," she wrote.



Dineh Benally speaks with reporter Ed Williams at Benally's family home in Shiprock, in 2020. Don J. Usner/Searchlight New Mexico

As thousands of non-Native workers poured onto sovereign land to grow cannabis – an illegal crop on the Navajo Nation – neighbors took to the streets in protest, demanding that the tribe shut down the operation. By the time **the raid** finally occurred, in November 2020, agents discovered nearly a quarter million marijuana plants.

“Why haven’t they been prosecuting that?” asked Bea Redfeather-Bennally, a Navajo farm board official and prominent opponent of the Shiprock marijuana venture. “That’s the million-dollar question.”

Forced labor alleged

A group of formerly trafficked farmworkers are asking similar questions.

On Sept. 27, 2023, 15 Chinese immigrants filed a **civil suit** in New Mexico state court, alleging that Benally and his associates lured them to Shiprock under false pretenses and engaged in human trafficking and exploitation.

In 2020, the lawsuit asserts, the workers were forced to harvest and process illegal marijuana at Benally’s farms in Shiprock and at a motel in nearby Farmington, where they worked in unventilated rooms with only upside-down buckets for seats. None received a penny, the complaint asserts.



Qinliang Wang in 2020, in front of his room at a motel in Farmington, where he came to do what he thought was legal flower trimming. Two days later, he was arrested. Don J. Usner/Searchlight New Mexico

One of the plaintiffs in the case, former California resident Qinliang Wang, talked to [Searchlight](#) in 2020, shortly before the motel was raided.

“I lost my job in California because of the pandemic back in March,” Wang explained, speaking in Mandarin. “My ancestors have been farmers for generations. When a friend told me about this work opportunity, I thought it would be perfect. Nobody told me it was illegal. Nobody told any of us workers it was illegal.”

No one mentioned that the job involved marijuana, he added. Instead, he was told he’d be “trimming flowers” in New Mexico for \$200 per day.

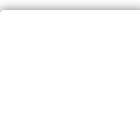
Shortly after the interview, local law enforcement raided the motel and arrested Wang and 16 other workers, charging them with multiple felonies.

The district attorney later dropped the charges, after the New Mexico Crime Victim Reparation Commission, the state public defender’s office, and [The Life Link](#), a Santa Fe-based service provider, determined the workers were victims of labor trafficking. But the arrests stayed on their record, making it difficult or impossible for them to find employment or get help.

“They are just hard-working innocent people,” said Lynn Sanchez, human trafficking aftercare director at The Life Link.

One of the workers took the job in Shiprock so he could buy medication for his daughter in China, who had a serious heart condition, Sanchez said. After the charges against him were dropped in Farmington, he took another job with one of Benally’s associates in Oklahoma, where he was arrested and sent to an immigration detention facility in Colorado. While locked up, unable to send money home, his daughter died.

The workers are still suffering profoundly, long after their arrests in Farmington, said Aaron Halegua, their attorney in the civil suit. Their mugshots were published in Chinese-language media, causing them to “lose face amongst friends, relatives and the broader community.” Several of them — including Qinliang Wang — have been turned down for jobs. Drug offenses are taken “extremely seriously” in China, he said.





Rows of greenhouses with mounds of cannabis seized by law enforcement at the Shiprock farms in 2020. Don J. Usner/Searchlight New Mexico

Brazen farms, bogus permits

From the start, Benally's enterprise stood out both for its scale and its brazenness. Beginning in 2019, when he was president of a local farm board, Benally began issuing bogus cannabis cultivation permits, paving the way for him and his business partners to start growing marijuana.

A 2020 **investigation** by Searchlight revealed that the farms, operating under the guise of a commercial hemp operation, were staffed by more than 1,000 workers brought to New Mexico from predominantly Chinese neighborhoods in Los Angeles and New York. Other workers were Navajo children, some as young as 10, Searchlight found.

In September, a tribal court ordered Benally to immediately cease growing cannabis, but he **nonetheless continued**. (He is due in Navajo court in December on criminal charges that he violated that court order.)

He could also potentially face criminal charges related to the November 2020 raid, when federal, state, local and tribal law enforcement agents descended on the Shiprock farms.

Benally fled the area before the bust and was initially presumed to be in hiding, according to then-Navajo Police Chief Phillip Francisco. In the meantime, some of his associates and scores of Shiprock workers relocated to Oklahoma, **Searchlight found**. Law enforcement eventually shut down those farms, as well.

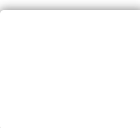
But there was always new territory to explore. In 2021, Benally reemerged in public and tried to set up a marijuana operation on the Pine Ridge Reservation in South Dakota; the Oglala Sioux Tribal Council promptly barred him from conducting business there.

Next, he returned to the Navajo Nation and tried his hand at politics: In 2022, he entered the primary race for president. (He **lost**, garnering 10 percent of the vote.)

He maintained a public profile, having breakfast at the Denny's near Window Rock, attending candidate forums and mingling with the crowds on the day of the Navajo Nation presidential inauguration.

It was a year of big changes for the recreational cannabis market: New Mexico had legalized adult use, and in 2022, the first licensed sales began. By October, Benally received his two state-sanctioned marijuana farming permits at the land in Estancia as well as in Waterflow, just east of the Navajo Nation.

State cannabis regulations prevent the licensing of anyone who has been convicted of certain felony crimes, including drug offenses or hiring underage labor for an illegal drug operation, according to RLD spokeswoman Andrea Brown. But the agency cannot deny a grow license if an applicant has not been convicted, Brown said.





Bryan Peng, an associate of Dineh Benally in Shiprock, inspects his plants at Big Buddha Farms in Oklahoma in 2020.
Wufei Yu for Searchlight New Mexico

Benally associates arrested

Benally has not been convicted, but some of his associates have been brought in. Law enforcement in California and Oklahoma targeted at least two of his former business partners. Most notable among them was Irving Lin, who helped supply labor, investors and logistics to the Shiprock farms. Lin was arrested in February 2022 after a series of raids on **illegal marijuana farms** in California.

That same year, federal and local law enforcement raided nine large-scale illegal marijuana operations in Oklahoma, including one whose laborers had formerly worked in Shiprock.

The owner of Big Buddha Farms — the largest farm targeted in those busts — was a former Benally associate named Bryan Peng. He was arrested and charged with drug trafficking and other felonies, Oklahoma Bureau of Narcotics spokesman Mark Woodward said.

And this month, Oklahoma officials raided the Harvesting Valley farm near the Texas border for allegedly supplying marijuana to the black market, an operation tied to Big Buddha Farms, according to Woodward.

Concrete evidence

Across the fertile farmland around Shiprock, Benally's now-defunct cannabis grows still mark the landscape. The scattered greenhouses and concrete foundations sunk into the earth prevent the land from returning to its prior purpose of growing corn — a crop sacred to the Navajo.

The cannabis infrastructure is being preserved as evidence, said Redfeather-Bennally, currently the vice president of the local farm board. And because federal cases take precedence, Navajo law enforcement largely must wait for the U.S. attorney's office to resolve its case before the Navajo Nation can act.

The Navajo Police Department and Attorney General's Office spent "a lot of resources" to crack the Benally case, said former Navajo Police Chief Phillip Francisco, who led the department until 2021. Navajo investigators discovered a slew of violations on the marijuana farms, including "EPA violations, stealing of water," and labor law violations, he said.

"It is frustrating that we did all that and there hasn't really been any resolution to it as far as charges...and then [Benally] continues on trying to find other places to do the same kind of issues," said Francisco, now the police chief in neighboring Bloomfield.

While tribal officials wait for the case to proceed, Redfeather-Bennally is pressing the federal government to cancel the land-use permits still held by Navajo farmers who leased their acreage to the marijuana operators years ago.

"Everything's at a standstill," she said.

Some steps are being taken outside the Navajo Nation, however.

The state Attorney General's office said it is "deeply concerned" about work conditions in the cannabis industry and the possibility of human trafficking "supported by international criminal organizations," a spokeswoman said in an email.

In August, special agents from the Attorney General's office raided a cannabis farm less than nine miles from Benally's farm in Estancia, an operation that was not linked to Benally. But the property, much like Benally's old Shiprock empire, is staffed by Chinese workers, with signs in Chinese clearly visible on the front gate.



A sign in English and Chinese warns that visitors must be escorted at a cannabis farm about nine miles from Benally's operation. The state Attorney General's office raided the property in August. Nadav Soroker/Searchlight New Mexico

BEFORE THE CANNABIS CONTROL DIVISION
FOR THE STATE OF NEW MEXICO

IN THE MATTER OF:

Case No. 2023-017

Duke City Cannabis,
License No. CCD-2022-0047,
CCD-2023-0135

Respondent(s).

NOTICE OF CONTEMPLATED ACTION

TAKE NOTICE that the Superintendent of the Regulation and Licensing Department (“Department”) and the Cannabis Control Division (“Division”) is contemplating taking disciplinary action against the license held by Duke City Cannabis (“Respondent”). The Department and the Division have before them sufficient evidence that, if not rebutted or satisfactorily explained at a formal hearing, will justify the Department and the Division revoking, suspending, issuing fines, or taking other disciplinary action against the Respondent’s license. If Respondent does not request a hearing within twenty days after service of this Notice of Contemplated Action (“Notice”), the Department and the Division will proceed to take the action contemplated in this Notice, and such action will be final and not subject to judicial review. Respondent may also request a settlement conference to determine whether a compromise of the penalty may be reached.

APPLICABLE LAW

1. Respondent is licensed pursuant to the Cannabis Regulation Act (“CRA”), NMSA 1978, Sections 26-2C-1 to -42 (2021), and as such is subject to the jurisdiction of the Department and Division. The Department and Division have jurisdiction over this disciplinary action pursuant to the Uniform Licensing Act (“ULA”), NMSA 1978, Sections 61-1-1 to -36 (1957, as amended through 2021).
2. This Notice is based upon the following alleged statutory or regulatory violation(s):

VIOLATION #1: Refusal of Entry

RULE CITATION OF VIOLATION: 16.8.2.20(C) NMAC

DESCRIPTION OF VIOLATION #1 AS IT PERTAINS TO RULE:

Licensees shall provide the division timely access to any material and information necessary for determining compliance with division rules or applicable law. Respondent refused division compliance officers access to the facilities to conduct a routine inspection of the facility.

VIOLATION #2: Improper Digital Surveillance System

RULE CITATION OF VIOLATION: 16.8.2.10 NMAC

DESCRIPTION OF VIOLATION #2 AS IT PERTAINS TO RULE:

Licensees shall provide and maintain at each premises a digital video surveillance system. The digital video surveillance system shall at all times be able to effectively and clearly record images of the area under surveillance and shall record. Areas of digital video surveillance include areas where cannabis and cannabis products are cultivated, produced, manufactured, weighed, packed, stored, loaded, and unloaded for transportation, prepared, or moved within the licensed premises; limited-access areas; areas storing a digital video surveillance-system storage device; entrances and exits to the licensed premises; and all point of sale (POS) locations to capture sale transactions. Respondent lacked digital surveillance coverage in the area treated as a vault, where cannabis and cannabis products were being stored.

VIOLATION #3: Lack of Certification of Weighing Scales

RULE CITATION OF VIOLATION: 16.8.2.27(A)(4) NMAC

DESCRIPTION OF VIOLATION #3 AS IT PERTAINS TO RULE:

Licensees shall ensure all weighting or measuring devices that are used in the wholesale of cannabis be appropriately documented as having undergone certified registration and calibration that is accordance with applicable requirements of the New Mexico department of agriculture. Respondent's weighing devices were not certified as required by rule.

VIOLATION #4: Lack of Food Handler's Card for All Required Employees

RULE CITATION OF VIOLATION: 16.8.2.26(B)(2) NMAC

DESCRIPTION OF VIOLATION #4 AS IT PERTAINS TO RULE:

Licensees shall require all of their employees who is involved in the handling, transportation, manufacture, extraction, testing, or packaging of cannabis products must successfully complete a food handler course accredited by the American National Standards Institute (ANSI) prior to conducting any related activities. Respondent's employees did not have documentation showing they had completed a food handler's course.

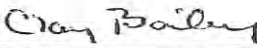
SUMMARY OF THE EVIDENCE AGAINST RESPONDENTS

3. The general nature of the evidence before the Division is as follows:
 - a. Witness testimony provided by division staff;
 - b. Photographs of Respondent's premise captured by division staff; and
 - c. Documentation of the site visit by division staff.

RIGHTS AND OBLIGATIONS OF RESPONDENT

4. **Unless Respondent requests a formal hearing, the evidence before the Division is sufficient to justify the Division in taking the contemplated action.**
5. The formal hearing, if requested, will be conducted pursuant to the ULA as provided by Section 61-1-8. Section 61-1-8 provides that:
 - A. A person entitled to be heard under the Uniform Licensing shall have the right to be represented by counsel or by a licensed member of his own profession or occupation, or both; to present all relevant evidence by means of witnesses and books, papers, documents and other evidence; to examine all opposing witnesses who appear on any matter relevant to the issues; and to have subpoenas and subpoenas duces tecum issued as of right prior to the commencement of the hearing to compel discovery and the attendance of witnesses and the production of relevant books, papers, documents and other evidence upon making written request therefor to the Division or hearing officer. The issuance of such subpoenas after the commencement of the hearing rests in the discretion of the Division or the hearing officer. All notices issued pursuant to Section 61-1-4 NMSA 1978 shall contain a statement of these rights.
 - B. Upon written request to another party, any party is entitled to:
 - (1) obtain the names and addresses of witnesses who will or may be called by the other party to testify at the hearing; and
 - (2) inspect and copy any documents or items which the other party will or may introduce in evidence at the hearing. The party to whom such a request is made shall comply with it within ten days after the mailing or delivery of the request. No request shall be made less than fifteen days before the hearing.
 - C. Any party may take depositions after service of notice in accordance with the Rules of Civil Procedure for the District Courts. Depositions may be used as in proceedings governed by those rules.
6. **If Respondent does not request a hearing in this matter, the Division will take the contemplated action by default. See § 61-1-4(D)(3). If no hearing is requested, this disciplinary action will not be subject to judicial review. See § 61-1-4(E).**
7. To request a hearing in this matter Respondent must deposit in the mail a certified return receipt requested letter addressed to the Division containing a request for a hearing within twenty days after services of this notice. See § 61-1-4(D)(3). A written request for a hearing should be sent to the following address:

Robert Sachs, Division Counsel
Cannabis Control Division
2550 Cerrillos Road
Santa Fe, NM 87505

 on behalf of Superintendent Trujillo

Linda Trujillo, Superintendent
Cannabis Control Division

Prepared by:

Robert Sachs
Division Counsel
Cannabis Control Division, Regulation and Licensing Department
1209 Camino Carlos Rey
Santa Fe, NM 87504
Robert.Sachs@rld.nm.gov
(505) 948-8609

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was mailed to Respondent by United States Postal Service Certified Mail, return receipt requested, on this 12th day of October 2023 to the following:

Duke City Cannabis,
322 Dakota St. SE
Albuquerque, NM 87108

Certified Mail No: 9171 9690 0935 0299 2455 92
Return Receipt Requested

I hereby certify that a true and correct copy of the foregoing was e-mailed, on this 12th day of October 2023 to the following:

Duke City Cannabis,
Respondent
Email: dukecitycannabis@gmail.com

By: Victoria Kaniatobe
Victoria Kaniatobe
Law Clerk
Cannabis Control Division

BEFORE THE CANNABIS CONTROL DIVISION
FOR THE STATE OF NEW MEXICO

IN THE MATTER OF:

Case No. 2023-019

Duke City Herbs,
License No. CCD-MICB-2023-0149,
CCD-2022-0210

Respondent(s).

NOTICE OF CONTEMPLATED ACTION

TAKE NOTICE that the Superintendent of the Regulation and Licensing Department (“Department”) and the Cannabis Control Division (“Division”) is contemplating taking disciplinary action against the license held by Duke City Herbs (“Respondent”). The Department and the Division have before them sufficient evidence that, if not rebutted or satisfactorily explained at a formal hearing, will justify the Department and the Division revoking, suspending, issuing fines, or taking other disciplinary action against the Respondent’s license. If Respondent does not request a hearing within twenty days after service of this Notice of Contemplated Action (“Notice”), the Department and the Division will proceed to take the action contemplated in this Notice, and such action will be final and not subject to judicial review. Respondent may also request a settlement conference to determine whether a compromise of the penalty may be reached.

APPLICABLE LAW

1. Respondent is licensed pursuant to the Cannabis Regulation Act (“CRA”), NMSA 1978, Sections 26-2C-1 to -42 (2021), and as such is subject to the jurisdiction of the Department and Division. The Department and Division have jurisdiction over this disciplinary action pursuant to the Uniform Licensing Act (“ULA”), NMSA 1978, Sections 61-1-1 to -36 (1957, as amended through 2021).
2. This Notice is based upon the following alleged statutory or regulatory violation(s):

VIOLATION #1: Unlicensed Activity

RULE CITATION OF VIOLATION: 16.8.2.29(A) NMAC

DESCRIPTION OF VIOLATION #1 AS IT PERTAINS TO RULE:

To engage in licensed manufacturing activities, including packaging, a Licensee must apply for and receive a license corresponding to the activity they are to perform. Respondent was found to be packaging cannabis and cannabis product for sale to consumers and qualified patients without the required manufacturing license.

VIOLATION #2: Failure to Provide Proof of Required Testing of Cannabis and Cannabis Products

RULE CITATION OF VIOLATION: 16.8.2.40(G)(1)(d) NMAC

DESCRIPTION OF VIOLATION #2 AS IT PERTAINS TO RULE:

Licensees shall not make cannabis available for sale without having first undergone testing at a licensed cannabis testing laboratory. Respondent was not utilizing the required state track and trace system, which stores testing results. Respondent lacked any other testing results.

VIOLATION #3: Improper Use of Required Track and Trace Software

RULE CITATION OF VIOLATION: 16.8.7.8(B), (C) NMAC

DESCRIPTION OF VIOLATION #3 AS IT PERTAINS TO RULE:

All cannabis plants and cannabis products are required to be properly tracked and recorded in the state seed-to-sale system called BioTrack. Bags of unlabeled and untrack cannabis product were found on-site.

VIOLATION #4: Missing Sales Reporting

RULE CITATION OF VIOLATION: 16.8.7.9(A) NMAC

DESCRIPTION OF VIOLATION #4 AS IT PERTAINS TO RULE:

Licensees must use the state approved track and trace system to keep and maintain comprehensive records to ensure adequate inventory tracking of any cannabis or cannabis products, including ensuring that data stored in a third-party point of sale system is integrated into BioTrack. Respondent's sales data was not found to be integrated into the state track and trace system.

VIOLATION #5: No Inventory Reconciliation

RULE CITATION OF VIOLATION: 16.8.2.40(K) NMAC

DESCRIPTION OF VIOLATION #5 AS IT PERTAINS TO RULE:

Licensees are required to conduct an inventory reconciliation at least once a month to ensure physical inventory matches the retailer's inventory records. Licensees are additionally required to document such reconciliations and make sure records available upon the Division's request. Respondent had no records of inventory reconciliation upon the request of the Division.

VIOLATION #6: Missing Information on Receipts

RULE CITATION OF VIOLATION: 16.8.2.40(L)(2) – (3) NMAC

DESCRIPTION OF VIOLATION #6 AS IT PERTAINS TO RULE:

Licensees shall maintain an accurate record of every sale of cannabis and cannabis products made to a customer, including the total amount paid for the sale including the individual prices paid for each cannabis or cannabis product purchased and any amount paid for cannabis excise tax. Respondent was not properly charging cannabis excise taxes and Respondent's receipts were found to be missing required information on the employee making the sale.

VIOLATION #7: Failure to Provide Timely Access to Digital Surveillance Footage
RULE CITATION OF VIOLATION: 16.8.2.10(F)(1), (3) NMAC and 16.8.2.20(C) NMAC

DESCRIPTION OF VIOLATION #7 AS IT PERTAINS TO RULE:

Licensees are required to have a functional digital surveillance system prior to any cannabis operations. Licensees are required to have all cannabis production, manufacturing, and retail activity captured on its surveillance system. Additionally, Licensees shall provide the division timely access to any material and information necessary for determining compliance with division rules or applicable law. Respondent was unwilling or unable to show compliance officers recorded video surveillance when requested.

VIOLATION #8: Failure to Present Required Standard Operating Procedures
RULE CITATION OF VIOLATION: 16.8.2.11(A); 16.8.2.12(A); and 16.8.2.39(A)(1) NMAC

DESCRIPTION OF VIOLATION #8 AS IT PERTAINS TO RULE:

Licensees are required to have written procedures for recall of cannabis and cannabis products, chain of custody of cannabis and cannabis products, and procedures for cannabis testing sample collection. Respondent had none of the required written plans on site.

VIOLATION #9: Failure to Present Required Employee Training Materials
RULE CITATION OF VIOLATION: 16.8.2.39(B)(1) – (2) NMAC
DESCRIPTION OF VIOLATION #9 AS IT PERTAINS TO RULE:

Licensees are required to have written training materials provided for their employees to cover a variety of health, safety, and general operational topics. Respondent did not have any employee training materials.


SUMMARY OF THE EVIDENCE AGAINST RESPONDENTS

3. The general nature of the evidence before the Division is as follows:
 - a. Witness testimony provided by division staff;
 - b. Photographs of Respondent's premise captured by division staff;
 - c. Inventory reports generated by the online inventory tracking system, BioTrack; and
 - d. Documentation of the site visit by division staff.

RIGHTS AND OBLIGATIONS OF RESPONDENT

4. **Unless Respondent requests a formal hearing, the evidence before the Division is sufficient to justify the Division in taking the contemplated action.**
5. The formal hearing, if requested, will be conducted pursuant to the ULA as provided by Section 61-1-8. Section 61-1-8 provides that:
 - A. A person entitled to be heard under the Uniform Licensing shall have the right to be represented by counsel or by a licensed member of his own profession or occupation, or both; to present all relevant evidence by means of witnesses and books, papers, documents and other evidence; to examine all opposing witnesses who appear on any matter relevant to the issues; and to have subpoenas and subpoenas duces tecum issued as of right prior to the commencement of the hearing to compel discovery and the attendance of witnesses and the production of relevant books, papers, documents and other evidence upon making written request therefor to the Division or hearing officer. The issuance of such subpoenas after the commencement of the hearing rests in the discretion of the Division or the hearing officer. All notices issued pursuant to Section 61-1-4 NMSA 1978 shall contain a statement of these rights.
 - B. Upon written request to another party, any party is entitled to: (1) obtain the names and addresses of witnesses who will or may be called by the other party to testify at the hearing; and (2) inspect and copy any documents or items which the other party will or may introduce in evidence at the hearing. The party to whom such a request is made shall comply with it within ten days after the mailing or delivery of the request. No request shall be made less than fifteen days before the hearing.
 - C. Any party may take depositions after service of notice in accordance with the Rules of Civil Procedure for the District Courts. Depositions may be used as in proceedings governed by those rules.
6. **If Respondent does not request a hearing in this matter, the Division will take the contemplated action by default. See § 61-1-4(D)(3). If no hearing is requested, this disciplinary action will not be subject to judicial review. See § 61-1-4(E).**
7. To request a hearing in this matter Respondent must deposit in the mail a certified return receipt requested letter addressed to the Division containing a request for a hearing within twenty days after services of this notice. See § 61-1-4(D)(3). A written request for a hearing should be sent to the following address:

Robert Sachs, Division Counsel
Cannabis Control Division
2550 Cerrillos Road
Santa Fe, NM 87505

 on behalf of Superintendent Trujillo

Linda Trujillo, Superintendent
Cannabis Control Division

Prepared by:

Robert Sachs
Division Counsel
Cannabis Control Division, Regulation and Licensing Department
1209 Camino Carlos Rey
Santa Fe, NM 87504
Robert.Sachs@rld.nm.gov
(505) 948-8609

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was mailed to Respondent by United States Postal Service Certified Mail, return receipt requested, on this 12th day of October 2023 to the following:

Duke City Herbs
4012 Central Ave SE
Albuquerque, NM 87108

Certified Mail No: 9171 9690 0935 0299 2455 61
Return Receipt Requested

I hereby certify that a true and correct copy of the foregoing was e-mailed, on this 12th day of October 2023 to the following:

Duke City Herbs
Respondent
Email: dukecityherbs@gmail.com

By: Victoria Kaniatobe
Victoria Kaniatobe
Law Clerk
Cannabis Control Division

BEFORE THE CANNABIS CONTROL DIVISION
FOR THE STATE OF NEW MEXICO

IN THE MATTER OF:

Case No. 2023-013

Leaf and Flower, LLC,
License No. CCD-VICE-2022-0088,

Respondent(s).

NOTICE OF CONTEMPLATED ACTION

TAKE NOTICE that the Superintendent of the Regulation and Licensing Department (“Department”) and the Cannabis Control Division (“Division”) is contemplating taking disciplinary action against the license held by Leaf and Flower, LLC (“Respondent”). The Department and the Division have before them sufficient evidence that, if not rebutted or satisfactorily explained at a formal hearing, will justify the Department and the Division revoking, suspending, issuing fines, or taking other disciplinary action against the Respondent’s license. If Respondent does not request a hearing within twenty days after service of this Notice of Contemplated Action (“Notice”), the Department and the Division will proceed to take the action contemplated in this Notice, and such action will be final and not subject to judicial review. Respondent may also request a settlement conference to determine whether a compromise of the penalty may be reached.

APPLICABLE LAW

1. Respondent is licensed pursuant to the Cannabis Regulation Act (“CRA”), NMSA 1978, Sections 26-2C-1 to -42 (2021), and as such is subject to the jurisdiction of the Department and Division. The Department and Division have jurisdiction over this disciplinary action pursuant to the Uniform Licensing Act (“ULA”), NMSA 1978, Sections 61-1-1 to -36 (1957, as amended through 2021).
2. This Notice is based upon the following alleged statutory or regulatory violation(s):

VIOLATION #1: Illegal Sale or Distribution

RULE CITATION OF VIOLATION: 16.8.2.8(E) NMAC

DESCRIPTION OF VIOLATION #1 AS IT PERTAINS TO RULE:

Licensees shall not knowingly and intentionally sell, deliver, or transport cannabis or cannabis products to any person that is not authorized to possess and receive the cannabis or cannabis products pursuant to state law or division rules. Per federal law, cannabis and cannabis products cannot be moved across state lines. Per state law, all cannabis and cannabis products must be cultivated, manufactured, tested, tracked, and sold within New Mexico. Respondent was found to be distributing cannabis product labeled as having originated in California.

VIOLATION #2: Unlawful Use of Track and Trace System

RULE CITATION OF VIOLATION: 16.8.7.13 NMAC

DESCRIPTION OF VIOLATION #2 AS IT PERTAINS TO RULE:

Licensees are required to use the online inventory tracking system, BioTrack in a lawful way. Respondent was found to be using BioTrack to distribute cannabis product labeled as having originated in California.

VIOLATION #3: Improper Chain of Custody

RULE CITATION OF VIOLATION: 16.8.2.12(A) NMAC

DESCRIPTION OF VIOLATION #3 AS IT PERTAINS TO RULE:

Licensees are required to ensure cannabis and cannabis product is accurately tracked throughout the supply chain, from production to retail. Respondent was found to be transporting cannabis product labeled as having originated in California.

VIOLATION #4: Improper Transportation of Cannabis Products

RULE CITATION OF VIOLATION: 16.8.2.13(A) NMAC

DESCRIPTION OF VIOLATION #4 AS IT PERTAINS TO RULE:

Licensees are required to ensure that all cannabis entering the licensed premises from other licensees is properly recorded and tracked. Licensees are also required to ensure that all cannabis exiting the licensed premises to other licensees is properly recorded and tracked. Licensees must also ensure cannabis is accurately packaged and transported. Respondent was found to be transporting cannabis product labeled as having originated in California.

SUMMARY OF THE EVIDENCE AGAINST RESPONDENTS

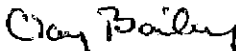
3. The general nature of the evidence before the Division is as follows:
 - . Witness testimony provided by division staff;
 - a. Photographs of Respondent's premise captured by division staff;
 - b. Transport manifests detailing transportation of cannabis product by Respondent;
 - c. Inventory reports generated by the online inventory tracking system, BioTrack; and
 - d. Documentation of the site visit by division staff.

RIGHTS AND OBLIGATIONS OF RESPONDENT

4. **Unless Respondent requests a formal hearing, the evidence before the Division is sufficient to justify the Division in taking the contemplated action.**
5. The formal hearing, if requested, will be conducted pursuant to the ULA as provided by Section 61-1-8. Section 61-1-8 provides that:

- A. A person entitled to be heard under the Uniform Licensing shall have the right to be represented by counsel or by a licensed member of his own profession or occupation, or both; to present all relevant evidence by means of witnesses and books, papers, documents and other evidence; to examine all opposing witnesses who appear on any matter relevant to the issues; and to have subpoenas and subpoenas duces tecum issued as of right prior to the commencement of the hearing to compel discovery and the attendance of witnesses and the production of relevant books, papers, documents and other evidence upon making written request therefor to the Division or hearing officer. The issuance of such subpoenas after the commencement of the hearing rests in the discretion of the Division or the hearing officer. All notices issued pursuant to Section 61-1-4 NMSA 1978 shall contain a statement of these rights.
- B. Upon written request to another party, any party is entitled to: (1) obtain the names and addresses of witnesses who will or may be called by the other party to testify at the hearing; and (2) inspect and copy any documents or items which the other party will or may introduce in evidence at the hearing. The party to whom such a request is made shall comply with it within ten days after the mailing or delivery of the request. No request shall be made less than fifteen days before the hearing.
- C. Any party may take depositions after service of notice in accordance with the Rules of Civil Procedure for the District Courts. Depositions may be used as in proceedings governed by those rules.
6. **If Respondent does not request a hearing in this matter, the Division will take the contemplated action by default. See § 61-1-4(D)(3). If no hearing is requested, this disciplinary action will not be subject to judicial review. See § 61-1-4(E).**
7. To request a hearing in this matter Respondent must deposit in the mail a certified return receipt requested letter addressed to the Division containing a request for a hearing within twenty days after services of this notice. See § 61-1-4(D)(3). A written request for a hearing should be sent to the following address:

Robert Sachs, Division Counsel
Cannabis Control Division
2550 Cerrillos Road
Santa Fe, NM 87505

 on behalf of Superintendent Trujillo
Linda Trujillo, Superintendent
Cannabis Control Division

Prepared by:

Robert Sachs

Division Counsel

Cannabis Control Division, Regulation and Licensing Department

1209 Camino Carlos Rey

Santa Fe, NM 87504

Robert.Sachs@rld.nm.gov

(505) 948-8609

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was mailed to Respondent by United States Postal Service Certified Mail, return receipt requested, on this 12th day of October 2023 to the following:

Jason Bowles
Attorney at Law
4811 Hardware Dr. NE Building D
Albuquerque, NM 87109

Certified Mail No. 9171 9690 0935 0299 2456 39
Return Receipt Requested

Leaf and Flower
4711 Lomas Blvd.
Albuquerque, NM 87110

Certified Mail No. 9171 9690 0935 0299 2456 22
Return Receipt Requested

I hereby certify that a true and correct copy of the foregoing was e-mailed, on this 12th day of October 2023 to the following:

Jason Bowles
Attorney for Respondent
Email: jason@bowles-lawfirm.com

Leaf and Flower
Respondent
Email: riosp@comcast.net

By: Victoria Kaniatobe
Victoria Kaniatobe
Law Clerk
Cannabis Control Division

BEFORE THE CANNABIS CONTROL DIVISION
FOR THE STATE OF NEW MEXICO

IN THE MATTER OF:

Case No. 2023-015

Native American Agricultural Development Company,
License No. CCD-2022-0868,

Respondent(s).

NOTICE OF CONTEMPLATED ACTION

TAKE NOTICE that the Superintendent of the Regulation and Licensing Department (“Department”) and the Cannabis Control Division (“Division”) is contemplating taking disciplinary action against the license held by Native American Agricultural Development Company (“Respondent”). The Department and the Division have before them sufficient evidence that, if not rebutted or satisfactorily explained at a formal hearing, will justify the Department and the Division revoking, suspending, issuing fines, or taking other disciplinary action against the Respondent’s license. If Respondent does not request a hearing within twenty days after service of this Notice of Contemplated Action (“Notice”), the Department and the Division will proceed to take the action contemplated in this Notice, and such action will be final and not subject to judicial review. Respondent may also request a settlement conference to determine whether a compromise of the penalty may be reached.

APPLICABLE LAW

1. Respondent is licensed pursuant to the Cannabis Regulation Act (“CRA”), NMSA 1978, Sections 26-2C-1 to -42 (2021), and as such is subject to the jurisdiction of the Department and Division. The Department and Division have jurisdiction over this disciplinary action pursuant to the Uniform Licensing Act (“ULA”), NMSA 1978, Sections 61-1-1 to -36 (1957, as amended through 2021).
2. This Notice is based upon the following alleged statutory or regulatory violation(s):

VIOLATION #1: Plant Count Exceeded

RULE CITATION OF VIOLATION: 16.8.8.9 NMAC

DESCRIPTION OF VIOLATION #1 AS IT PERTAINS TO RULE:

Licensees must only grow the number of cannabis plants for which they are approved and may not exceed their allotted plant limit. Respondent far exceeded their plant count.

VIOLATION #2: Insufficient Plant Fees Paid

RULE CITATION OF VIOLATION: 16.8.11.11(A) NMAC

DESCRIPTION OF VIOLATION #2 AS IT PERTAINS TO RULE:

Licensees must pay a fee of five (5) dollars for each mature cannabis plant for which they are approved to grow for commercial use. Respondent was found to be growing mature cannabis plants in excess of their approved count without paying the requisite plant fees.

VIOLATION #3: Non-Use of Required Track and Trace Software

RULE CITATION OF VIOLATION: 16.8.2.8(J) NMAC and 16.8.7.8 NMAC

DESCRIPTION OF VIOLATION #3 AS IT PERTAINS TO RULE:

Licensees must track all cannabis seeds, clones, plants and products in the required online inventory tracking software, BioTrack. Respondent had not entered any information into BioTrack despite actively producing cannabis plants.

VIOLATION #4: No Chain of Custody Procedures in Place

RULE CITATION OF VIOLATION: 16.8.2.12 NMAC

DESCRIPTION OF VIOLATION #4 AS IT PERTAINS TO RULE:

Licensees shall adopt, maintain, and enforce chain of custody procedures and documentation requirements to ensure appropriate tracking and tracing of cannabis and cannabis products. Respondent did not have written chain of custody procedures onsite, as required by rule.

VIOLATION #5: Improper Security Measures

RULE CITATION OF VIOLATION: 16.8.2.10 NMAC

DESCRIPTION OF VIOLATION #5 AS IT PERTAINS TO RULE:

Licensees must ensure that proper security measure to keep cannabis and cannabis product stored safely to prevent degradation and prevent diversion or inversion of the product, including having functioning digital surveillance systems and security alarm systems in place. Respondent did not have a functioning digital surveillance system nor a functioning security alarm system in place.

VIOLATION #6: Minimum Requirements for the Production of Cannabis Not Met

RULE CITATION OF VIOLATION: 16.8.2.27(F) NMAC

DESCRIPTION OF VIOLATION #6 AS IT PERTAINS TO RULE:

Licensees must meet certain minimum requirements in order to produce cannabis, including, but not limited to, meeting certain health and safety standards, establishing and following a pest control plan, and establishing and following a cannabis wastage procedure. Respondent's facilities did not meet minimum production requirements on account of rubbish found throughout the facility, and evidence of pests found on cannabis plants.

VIOLATION #7: Lack of Required Quality Assurance Testing

RULE CITATION OF VIOLATION: 16.8.7.15 NMAC and 16.8.2.40(G)(1)(d) NMAC

DESCRIPTION OF VIOLATION #7 AS IT PERTAINS TO RULE:

Licensees must ensure all cannabis and cannabis product has passed all required testing prior to making cannabis or cannabis product available for sale and must log testing results in BioTrack. Respondent has not conducted a single quality assurance test despite having cannabis plants and product on-site.

VIOLATION #8: Lack of Required Standard Policies and Procedures

RULE CITATION OF VIOLATION: 16.8.2.26 NMAC

DESCRIPTION OF VIOLATION #8 AS IT PERTAINS TO RULE:

Licensees must develop, implement, and keep on their premises standard policies and procedures, which should include processes related to chain of custody, employee health and safety, transportation of cannabis, sample collection of cannabis for required quality assurance testing, and remediation of cannabis that does not meet required quality assurance standards. Respondent had not developed and standard policies and procedures.

SUMMARY OF THE EVIDENCE AGAINST RESPONDENTS

3. The general nature of the evidence before the Division is as follows:
 - a. Testimony by compliance officers present on-site;
 - b. Documentation created by compliance officers present on-site;
 - c. Documentation related to Respondent's license;
 - d. Photographs collected by compliance officers present on-site; and
 - e. Reports generated by compliance officers from the online inventory tracking system, BioTrack.

RIGHTS AND OBLIGATIONS OF RESPONDENT

4. **Unless Respondent requests a formal hearing, the evidence before the Division is sufficient to justify the Division in taking the contemplated action.**
5. The formal hearing, if requested, will be conducted pursuant to the ULA as provided by Section 61-1-8. Section 61-1-8 provides that:
 - A. A person entitled to be heard under the Uniform Licensing shall have the right to be represented by counsel or by a licensed member of his own profession or occupation, or both; to present all relevant evidence by means of witnesses and books, papers, documents and other evidence; to examine all opposing witnesses who appear on any matter relevant to the issues; and to have subpoenas and subpoenas duces tecum issued as of right prior to the

commencement of the hearing to compel discovery and the attendance of witnesses and the production of relevant books, papers, documents and other evidence upon making written request therefor to the Division or hearing officer. The issuance of such subpoenas after the commencement of the hearing rests in the discretion of the Division or the hearing officer. All notices issued pursuant to Section 61-1-4 NMSA 1978 shall contain a statement of these rights.

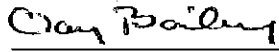
B. Upon written request to another party, any party is entitled to: (1) obtain the names and addresses of witnesses who will or may be called by the other party to testify at the hearing; and (2) inspect and copy any documents or items which the other party will or may introduce in evidence at the hearing. The party to whom such a request is made shall comply with it within ten days after the mailing or delivery of the request. No request shall be made less than fifteen days before the hearing.

C. Any party may take depositions after service of notice in accordance with the Rules of Civil Procedure for the District Courts. Depositions may be used as in proceedings governed by those rules.

6. **If Respondent does not request a hearing in this matter, the Division will take the contemplated action by default. See § 61-1-4(D)(3). If no hearing is requested, this disciplinary action will not be subject to judicial review. See § 61-1-4(E).**

7. To request a hearing in this matter Respondent must deposit in the mail a certified return receipt requested letter addressed to the Division containing a request for a hearing within twenty days after services of this notice. See § 61-1-4(D)(3). A written request for a hearing should be sent to the following address:

Robert Sachs, Division Counsel
Cannabis Control Division
2550 Cerrillos Road
Santa Fe, NM 87505

 on behalf of Superintendent Trujillo
Linda Trujillo, Superintendent
Cannabis Control Division

Prepared by:

Robert Sachs
Division Counsel
Cannabis Control Division, Regulation and Licensing Department

1209 Camino Carlos Rey
Santa Fe, NM 87504
Robert.Sachs@rld.nm.gov
(505) 948-8609

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was mailed to Respondent by United States Postal Service Certified Mail, return receipt requested, on this 12th day of October 2023 to the following:

Native American Agricultural Development
Company,
597 Hwy 41
Estancia, NM 87016

Certified Mail No: 9171 9690 0935 0299 2455 30
Return Receipt Requested

I hereby certify that a true and correct copy of the foregoing was e-mailed, on this 12th day of October 2023 to the following:

Native American Agricultural Development
Company
Respondent
Email: naadc2018@gmail.com

By: Victoria Kaniatobe
Victoria Kaniatobe
Law Clerk
Cannabis Control Division

BEFORE THE CANNABIS CONTROL DIVISION
FOR THE STATE OF NEW MEXICO

IN THE MATTER OF:

Case No. 2023-018

New Mexico Drip LLC,
License No. CCD-2022-0278,
CCD-2022-0591

Respondent(s).

NOTICE OF CONTEMPLATED ACTION

TAKE NOTICE that the Superintendent of the Regulation and Licensing Department (“Department”) and the Cannabis Control Division (“Division”) is contemplating taking disciplinary action against the license held by New Mexico Drip LLC (“Respondent”). The Department and the Division have before them sufficient evidence that, if not rebutted or satisfactorily explained at a formal hearing, will justify the Department and the Division revoking, suspending, issuing fines, or taking other disciplinary action against the Respondent’s license. If Respondent does not request a hearing within twenty days after service of this Notice of Contemplated Action (“Notice”), the Department and the Division will proceed to take the action contemplated in this Notice, and such action will be final and not subject to judicial review. Respondent may also request a settlement conference to determine whether a compromise of the penalty may be reached.

APPLICABLE LAW

1. Respondent is licensed pursuant to the Cannabis Regulation Act (“CRA”), NMSA 1978, Sections 26-2C-1 to -42 (2021), and as such is subject to the jurisdiction of the Department and Division. The Department and Division have jurisdiction over this disciplinary action pursuant to the Uniform Licensing Act (“ULA”), NMSA 1978, Sections 61-1-1 to -36 (1957, as amended through 2021).
2. This Notice is based upon the following alleged statutory or regulatory violation(s):

VIOLATION #1: Denial of Entry onto Premises

RULE CITATION OF VIOLATION: 16.8.2.20(A) NMAC

DESCRIPTION OF VIOLATION #1 AS IT PERTAINS TO RULE:

Licensees shall provide the division timely access to any material and information necessary for determining compliance with division rules or applicable law. Respondent refused division officers entry to conduct a routine compliance inspection on two separate occasions.

VIOLATION #2: Improper Labeling on Finished Cannabis Product

RULE CITATION OF VIOLATION: 16.8.2.40(G)(1)(e) NMAC

DESCRIPTION OF VIOLATION #2 AS IT PERTAINS TO RULE:

Licensees shall not make any cannabis or cannabis products available for sale or delivery to a customer unless the cannabis or cannabis products complies with division rules on packaging and labeling. Respondent's labels did not contain appropriate warning labels.

VIOLATION #3: No Physical Inventory Reconciliation

RULE CITATION OF VIOLATION: 16.8.2.40(K) NMAC

DESCRIPTION OF VIOLATION #3 AS IT PERTAINS TO RULE:

Licensees shall perform a reconciliation of its inventory at least once every calendar month. In conducting an inventory reconciliation, a licensed retailer shall verify that the licensed retailer's physical inventory is consistent with the licensed retailer's records pertaining to inventory. The result of inventory reconciliation shall be retained in the licensed retailer's records and shall be made available to the division upon request. Respondent did not have any comprehensive inventory tracking records for physical inventory when requested.

SUMMARY OF THE EVIDENCE AGAINST RESPONDENTS

3. The general nature of the evidence before the Division is as follows:
 - a. Witness testimony provided by division staff;
 - b. Photographs of Respondent's premise captured by division staff; and
 - c. Documentation of the site visit by division staff.

RIGHTS AND OBLIGATIONS OF RESPONDENT

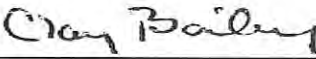
4. **Unless Respondent requests a formal hearing, the evidence before the Division is sufficient to justify the Division in taking the contemplated action.**
5. The formal hearing, if requested, will be conducted pursuant to the ULA as provided by Section 61-1-8. Section 61-1-8 provides that:
 - A. A person entitled to be heard under the Uniform Licensing shall have the right to be represented by counsel or by a licensed member of his own profession or occupation, or both; to present all relevant evidence by means of witnesses and books, papers, documents and other evidence; to examine all opposing witnesses who appear on any matter relevant to the issues; and to have subpoenas and subpoenas duces tecum issued as of right prior to the commencement of the hearing to compel discovery and the attendance of witnesses and the production of relevant books, papers, documents and other evidence upon making written request

therefor to the Division or hearing officer. The issuance of such subpoenas after the commencement of the hearing rests in the discretion of the Division or the hearing officer. All notices issued pursuant to Section 61-1-4 NMSA 1978 shall contain a statement of these rights.

- B. Upon written request to another party, any party is entitled to: (1) obtain the names and addresses of witnesses who will or may be called by the other party to testify at the hearing; and (2) inspect and copy any documents or items which the other party will or may introduce in evidence at the hearing. The party to whom such a request is made shall comply with it within ten days after the mailing or delivery of the request. No request shall be made less than fifteen days before the hearing.
- C. Any party may take depositions after service of notice in accordance with the Rules of Civil Procedure for the District Courts. Depositions may be used as in proceedings governed by those rules.

- 6. **If Respondent does not request a hearing in this matter, the Division will take the contemplated action by default. See § 61-1-4(D)(3). If no hearing is requested, this disciplinary action will not be subject to judicial review. See § 61-1-4(E).**
- 7. To request a hearing in this matter Respondent must deposit in the mail a certified return receipt requested letter addressed to the Division containing a request for a hearing within twenty days after services of this notice. See § 61-1-4(D)(3). A written request for a hearing should be sent to the following address:

Robert Sachs, Division Counsel
Cannabis Control Division
2550 Cerrillos Road
Santa Fe, NM 87505

 on behalf of Superintended Trujillo
Linda Trujillo, Superintendent
Cannabis Control Division

Prepared by:

Robert Sachs
Division Counsel
Cannabis Control Division, Regulation and Licensing Department
1209 Camino Carlos Rey
Santa Fe, NM 87504
Robert.Sachs@rld.nm.gov
(505) 948-8609

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was mailed to Respondent by United States Postal Service Certified Mail, return receipt requested, on this 12th day of October 2023 to the following:

New Mexico Drip LLC.,
9012 Central Ave. SE
Albuquerque, NM 87123

Certified Mail No: 9171 9690 0935 0299 2455 54
Return Receipt Requested

I hereby certify that a true and correct copy of the foregoing was e-mailed, on this 12th day of October 2023 to the following:

New Mexico Drop LLC,
Respondent
Email: bertaleemarshal@hotmail.com

By: Victoria Kaniatobe
Victoria Kaniatobe
Law Clerk
Cannabis Control Division

BEFORE THE CANNABIS CONTROL DIVISION
FOR THE STATE OF NEW MEXICO

IN THE MATTER OF:

Case No. 2023-014

Oasis Ventures LLC,
License No. CCD-2023-0211 &
CCD-2023-0328,

Respondent(s).

NOTICE OF CONTEMPLATED ACTION

TAKE NOTICE that the Superintendent of the Regulation and Licensing Department (“Department”) and the Cannabis Control Division (“Division”) is contemplating taking disciplinary action against the license held by Oasis Ventures LLC (“Respondent”). The Department and the Division have before them sufficient evidence that, if not rebutted or satisfactorily explained at a formal hearing, will justify the Department and the Division revoking, suspending, issuing fines, or taking other disciplinary action against the Respondent’s license. If Respondent does not request a hearing within twenty days after service of this Notice of Contemplated Action (“Notice”), the Department and the Division will proceed to take the action contemplated in this Notice, and such action will be final and not subject to judicial review. Respondent may also request a settlement conference to determine whether a compromise of the penalty may be reached.

APPLICABLE LAW

1. Respondent is licensed pursuant to the Cannabis Regulation Act (“CRA”), NMSA 1978, Sections 26-2C-1 to -42 (2021), and as such is subject to the jurisdiction of the Department and Division. The Department and Division have jurisdiction over this disciplinary action pursuant to the Uniform Licensing Act (“ULA”), NMSA 1978, Sections 61-1-1 to -36 (1957, as amended through 2021).
2. This Notice is based upon the following alleged statutory or regulatory violation(s):

VIOLATION #1: Lack of Required Plant Tags

RULE CITATION OF VIOLATION: 16.8.7.8(B)(1) NMAC

DESCRIPTION OF VIOLATION #1 AS IT PERTAINS TO RULE:

Licensees are required to utilize division approved track and trace equipment, software, and services to track immature and mature plants, cannabis and cannabis products, and any additional data. Respondent did not tag cannabis plants with the BioTrack tag, as required by rule.

VIOLATION #2: Lack of Required Chain of Custody Procedures

RULE CITATION OF VIOLATION: 16.8.2.12 NMAC

DESCRIPTION OF VIOLATION #2 AS IT PERTAINS TO RULE:

Licensees are required to adopt, maintain, and enforce chain of custody procedures and documentation requirements to ensure appropriate tracking and tracing of cannabis and cannabis products. Respondent was unable to produce chain of custody procedures upon request by the division.

VIOLATION #3: Improper Required State Logo

RULE CITATION OF VIOLATION: 16.8.3.9(K)(4) NMAC

DESCRIPTION OF VIOLATION #3 AS IT PERTAINS TO RULE:

Licensees are required to place a logo designed and provided by the division that notifies a reasonable person that the product contains cannabis. This logo is specific to New Mexico and ensures the product was manufactured in New Mexico as required by law. Respondent's cannabis product packaging was using a cannabis finished product logo from another state.

VIOLATION #4: Denying Timely Access to Premises

RULE CITATION OF VIOLATION: 16.8.2.20(C) NMAC

DESCRIPTION OF VIOLATION #4 AS IT PERTAINS TO RULE:

Licensees shall provide the division timely access to any material and information necessary for determining compliance with division rules or applicable law. Respondent denied division representatives access to inspect two vaults where cannabis or cannabis product was being stored.

VIOLATION #5: Lack of Required NMED Permit

RULE CITATION OF VIOLATION: 16.8.2.8(A) NMAC and 16.8.6.8(I) NMAC

DESCRIPTION OF VIOLATION #5 AS IT PERTAINS TO RULE:

Licensees are required to comply with all applicable state and local laws that do not conflict with the Cannabis Regulation Act or the Lynn and Erin Compassionate Use Act, including, but not limited to, food safety, construction and building codes, operation of a cannabis establishment, zoning, building and fire codes, and business or professional licensing. Respondent failed to acquire the required food permit from the New Mexico Environment Department.

VIOLATION #6: Failure to Meet Minimum Manufacturing Requirements

RULE CITATION OF VIOLATION: 16.8.2.33 NMAC

DESCRIPTION OF VIOLATION #6 AS IT PERTAINS TO RULE:

Licensees are required to develop policies and procedures for internal operations to ensure compliance with state rules. Licensees are required to develop and implement a training program to ensure employee health and safety. Licensees shall maintain a record of the employees who have received training. Respondent was unable to provide policies and procedures related to employee training, representative sampling and analytical testing, transportation of cannabis samples to testing laboratories, transportation to another cannabis establishment, testing sample collection policy, and destruction of cannabis and cannabis product upon request by the division.

VIOLATION #7: Improper Handling of Cannabis

RULE CITATION OF VIOLATION: 16.8.2.27(F)(5) NMAC

DESCRIPTION OF VIOLATION #7 AS IT PERTAINS TO RULE:

Licensees must ensure that all persons on their licensed premises who are preparing or handling cannabis conform to hygienic practices while on duty. Respondent's employees were not wearing any form of personal protective equipment while handling cannabis and were wearing open toed shoes.

VIOLATION #8: Lack of Employee Badges

RULE CITATION OF VIOLATION: 16.8.2.10(K) NMAC

DESCRIPTION OF VIOLATION #8 AS IT PERTAINS TO RULE:

Licensees are required to have employee identification badges for all agents, officer, or other persons acting for or employed by a licensee. Respondent did not have any employee identification badges.

VIOLATION #9: Non-Compliance with Closed-Loop Extraction Systems

RULE CITATION OF VIOLATION: 16.8.2.34 NMAC

DESCRIPTION OF VIOLATION #9 AS IT PERTAINS TO RULE:

Licensees utilizing closed loop extraction systems are required to meet fire, safety, and building code requirements. Licensees are also required to meet certain quality standards for the volatile solvents used during extraction. Lastly, Licensees are required to keep a list of all employees trained in proper closed loop extraction. Respondent was unable to provide documentation showing that the volatile solvents used during extraction were compliant with division rules. Respondent was unable to provide a list of trained employees. Respondent did not have any safety data sheets on site.

VIOLATION #10: Lack of Required Recall Procedures

RULE CITATION OF VIOLATION: 16.8.2.11 NMAC

DESCRIPTION OF VIOLATION #10 AS IT PERTAINS TO RULE:

Licensees are required to have a written procedure in place for the recall of cannabis and cannabis products. Respondent was unable to produce recall procedures upon request by the division.

SUMMARY OF THE EVIDENCE AGAINST RESPONDENTS

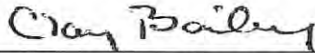
3. The general nature of the evidence before the Division is as follows:
 - . Witness testimony provided by division staff;
 - a. Photographs of Respondent's premise captured by division staff; and
 - b. Documentation of the site visit by division staff.

RIGHTS AND OBLIGATIONS OF RESPONDENT

4. **Unless Respondent requests a formal hearing, the evidence before the Division is sufficient to justify the Division in taking the contemplated action.**
5. The formal hearing, if requested, will be conducted pursuant to the ULA as provided by Section 61-1-8. Section 61-1-8 provides that:
 - A. A person entitled to be heard under the Uniform Licensing shall have the right to be represented by counsel or by a licensed member of his own profession or occupation, or both; to present all relevant evidence by means of witnesses and books, papers, documents and other evidence; to examine all opposing witnesses who appear on any matter relevant to the issues; and to have subpoenas and subpoenas duces tecum issued as of right prior to the commencement of the hearing to compel discovery and the attendance of witnesses and the production of relevant books, papers, documents and other evidence upon making written request therefor to the Division or hearing officer. The issuance of such subpoenas after the commencement of the hearing rests in the discretion of the Division or the hearing officer. All notices issued pursuant to Section 61-1-4 NMSA 1978 shall contain a statement of these rights.
 - B. Upon written request to another party, any party is entitled to: (1) obtain the names and addresses of witnesses who will or may be called by the other party to testify at the hearing; and (2) inspect and copy any documents or items which the other party will or may introduce in evidence at the hearing. The party to whom such a request is made shall comply with it within ten days after the mailing or delivery of the request. No request shall be made less than fifteen days before the hearing.
 - C. Any party may take depositions after service of notice in accordance with the Rules of Civil Procedure for the District Courts. Depositions may be used as in proceedings governed by those rules.
6. **If Respondent does not request a hearing in this matter, the Division will take the contemplated action by default. See § 61-1-4(D)(3). If no hearing is requested, this disciplinary action will not be subject to judicial review. See § 61-1-4(E).**
7. To request a hearing in this matter Respondent must deposit in the mail a certified return receipt requested letter addressed to the Division containing a request for a hearing within twenty days after services of this notice. See § 61-1-4(D)(3). A written request for a hearing should be sent to the following address:

Robert Sachs, Division Counsel

Cannabis Control Division
2550 Cerrillos Road
Santa Fe, NM 87505

 on behalf of Superintendent Trujillo
Linda Trujillo, Superintendent
Cannabis Control Division

Prepared by:

Robert Sachs
Division Counsel
Cannabis Control Division, Regulation and Licensing Department
1209 Camino Carlos Rey
Santa Fe, NM 87504
Robert.Sachs@rld.nm.gov
(505) 948-8609

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was mailed to Respondent by United States Postal Service Certified Mail, return receipt requested, on this 12th day of October 2023 to the following:

Patricia M. Monaghan
Attorney at Law
6707 Academy Rd. NE Suite A
Albuquerque, NM 87109

Certified Mail No. 9171 9690 0935 0299 2455 85
Return Receipt Requested

Oasis Ventures LLC.
4735 Keeler Rd. NW
Deming, NM 88030

Certified Mail No. 9171 9690 0935 0299 2455 78
Return Receipt Requested

I hereby certify that a true and correct copy of the foregoing was e-mailed, on this 12th day of October 2023 to the following:

Patricia M. Monaghan
Attorney for Respondent
Email: triciamonaghan@aol.com

Oasis Ventures LLC.
Respondent
Email: caleb.mata@yahoo.com

By: Victoria Kaniatobe
Victoria Kaniatobe
Law Clerk
Cannabis Control Division

BEFORE THE CANNABIS CONTROL DIVISION
FOR THE STATE OF NEW MEXICO

IN THE MATTER OF:

Case No. 2023-020

The Green Room,
License No. CCD-MICB-2022-0177,

Respondent(s).

NOTICE OF CONTEMPLATED ACTION

TAKE NOTICE that the Superintendent of the Regulation and Licensing Department (“Department”) and the Cannabis Control Division (“Division”) is contemplating taking disciplinary action against the license held by The Green Room (“Respondent”). The Department and the Division have before them sufficient evidence that, if not rebutted or satisfactorily explained at a formal hearing, will justify the Department and the Division revoking, suspending, issuing fines, or taking other disciplinary action against the Respondent’s license. If Respondent does not request a hearing within twenty days after service of this Notice of Contemplated Action (“Notice”), the Department and the Division will proceed to take the action contemplated in this Notice, and such action will be final and not subject to judicial review. Respondent may also request a settlement conference to determine whether a compromise of the penalty may be reached.

APPLICABLE LAW

1. Respondent is licensed pursuant to the Cannabis Regulation Act (“CRA”), NMSA 1978, Sections 26-2C-1 to -42 (2021), and as such is subject to the jurisdiction of the Department and Division. The Department and Division have jurisdiction over this disciplinary action pursuant to the Uniform Licensing Act (“ULA”), NMSA 1978, Sections 61-1-1 to -36 (1957, as amended through 2021).
2. This Notice is based upon the following alleged statutory or regulatory violation(s):

VIOLATION #1: Engaging in Unlicensed Activity

RULE CITATION OF VIOLATION: 16.8.2.34 and 16.8.2.40(M) NMAC

DESCRIPTION OF VIOLATION #1 AS IT PERTAINS TO RULE:

Manufacturing licensees must ensure that they are compliance with the Cannabis Regulation Act and rules promulgated thereto. Additionally, Licensees engaging in retail activity may only move cannabis and cannabis product between other licensed retailers in compliance with the Cannabis Regulation Act and laws promulgated thereto. Respondent was behaving as a manufacturer license by moving wholesale cannabis and cannabis product from its retail location to other licensees. Respondent was not compliant with division rules related to retail activities despite having a retail approved premise.

VIOLATION #2: Receipt of Illicit Cannabis

RULE CITATION OF VIOLATION: 16.8.2.40(G)(1)(A) NMAC
DESCRIPTION OF VIOLATION #2 AS IT PERTAINS TO RULE:

A licensed retailer shall not make any cannabis or cannabis products available for sale or delivery to a customer unless the cannabis or cannabis products were received by the retail licensee from a licensed producer, licensed producer microbusiness, licensed manufacturer, licensed vertically integrated cannabis establishment, or licensed integrated cannabis microbusiness. Respondent's online inventory records show that 121 pounds of flower was transferred from this facility despite the facility not being sufficient for any form of commercial cannabis activity.

VIOLATION #3: Improper Track and Trace Recordkeeping
RULE CITATION OF VIOLATION: 16.8.7.9(A) NMAC
DESCRIPTION OF VIOLATION #3 AS IT PERTAINS TO RULE:

Licensees must use the state approved track and trace system to keep and maintain comprehensive records to ensure adequate inventory tracking of any cannabis or cannabis products. Respondent was not accurately recording sales in the track and trace system.

VIOLATION #4: Inaccurate Sales Records
RULE CITATION OF VIOLATION: 16.8.2.40(L) NMAC and 16.8.2.20(A) NMAC
DESCRIPTION OF VIOLATION #4 AS IT PERTAINS TO RULE

Licensees must ensure that all sales are accurately recorded. Respondent had no records of any receipts despite having evidence of wholesaling cannabis product from this facility.

VIOLATION #5: Denied Access to Vault
RULE CITATION OF VIOLATION: 16.8.2.10(P) NMAC
DESCRIPTION OF VIOLATION #5 AS IT PERTAINS TO RULE:

Licensees are required to store all cannabis not immediately being used for production, manufacturing, or retail in a secured vault. Additionally, licensees shall provide the division with timely access to any material and information necessary for determining compliance with division rules or applicable law. Respondent refused division officers access to the vault on-site.

VIOLATION #6: Failure to Present Required Standard Operating Procedures
RULE CITATION OF VIOLATION: 16.8.2.11(A); 16.8.2.12(A); and 16.8.2.39(A)(1) NMAC
DESCRIPTION OF VIOLATION #6 AS IT PERTAINS TO RULE:

Licensees are required to have written procedures for recall of cannabis and cannabis products, chain of custody of cannabis and cannabis products, and procedures for cannabis testing sample collection. Respondent had none of the required written plans on site.

SUMMARY OF THE EVIDENCE AGAINST RESPONDENTS

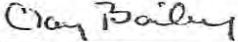
3. The general nature of the evidence before the Division is as follows:
 - a. Witness testimony provided by division staff;
 - b. Photographs of Respondent's premise captured by division staff;
 - c. Inventory reports generated by the online inventory tracking system, BioTrack; and
 - d. Documentation of the site visit by division staff.

RIGHTS AND OBLIGATIONS OF RESPONDENT

4. **Unless Respondent requests a formal hearing, the evidence before the Division is sufficient to justify the Division in taking the contemplated action.**
5. The formal hearing, if requested, will be conducted pursuant to the ULA as provided by Section 61-1-8. Section 61-1-8 provides that:
 - A. A person entitled to be heard under the Uniform Licensing shall have the right to be represented by counsel or by a licensed member of his own profession or occupation, or both; to present all relevant evidence by means of witnesses and books, papers, documents and other evidence; to examine all opposing witnesses who appear on any matter relevant to the issues; and to have subpoenas and subpoenas duces tecum issued as of right prior to the commencement of the hearing to compel discovery and the attendance of witnesses and the production of relevant books, papers, documents and other evidence upon making written request therefor to the Division or hearing officer. The issuance of such subpoenas after the commencement of the hearing rests in the discretion of the Division or the hearing officer. All notices issued pursuant to Section 61-1-4 NMSA 1978 shall contain a statement of these rights.
 - B. Upon written request to another party, any party is entitled to:
 - (1) obtain the names and addresses of witnesses who will or may be called by the other party to testify at the hearing; and
 - (2) inspect and copy any documents or items which the other party will or may introduce in evidence at the hearing. The party to whom such a request is made shall comply with it within ten days after the mailing or delivery of the request. No request shall be made less than fifteen days before the hearing.

- C. Any party may take depositions after service of notice in accordance with the Rules of Civil Procedure for the District Courts. Depositions may be used as in proceedings governed by those rules.
6. **If Respondent does not request a hearing in this matter, the Division will take the contemplated action by default. See § 61-1-4(D)(3). If no hearing is requested, this disciplinary action will not be subject to judicial review. See § 61-1-4(E).**
7. To request a hearing in this matter Respondent must deposit in the mail a certified return receipt requested letter addressed to the Division containing a request for a hearing within twenty days after services of this notice. See § 61-1-4(D)(3). A written request for a hearing should be sent to the following address:

Robert Sachs, Division Counsel
Cannabis Control Division
2550 Cerrillos Road
Santa Fe, NM 87505

 on behalf of Superintendent Trujillo
Linda Trujillo, Superintendent
Cannabis Control Division

Prepared by:

Robert Sachs
Division Counsel
Cannabis Control Division, Regulation and Licensing Department
1209 Camino Carlos Rey
Santa Fe, NM 87504
Robert.Sachs@rld.nm.gov
(505) 948-8609

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was mailed to Respondent by United States Postal Service Certified Mail, return receipt requested, on this 12th day of October 2023 to the following:

The Green Room
1011 4th St. NW
Albuquerque, NM 87106

Certified Mail No. 9171 9690 0935 0299 2456 15
Return Receipt Requested

I hereby certify that a true and correct copy of the foregoing was e-mailed, on this 12th day of October 2023 to the following:

The Green Room
Respondent
Email: thegreenroomnm@gmail.com

By: Victoria Kaniatobe
Victoria Kaniatobe
Law Clerk
Cannabis Control Division

BEFORE THE CANNABIS CONTROL DIVISION
FOR THE STATE OF NEW MEXICO

IN THE MATTER OF:

Case No. 2023-021

Bien Loca Industries LLC,
License No. CCD-VICE-2022-0068,

Respondent(s).

NOTICE OF CONTEMPLATED ACTION

TAKE NOTICE that the Superintendent of the Regulation and Licensing Department (“Department”) and the Cannabis Control Division (“Division”) is contemplating taking disciplinary action against the license held by Bien Loca Industries LLC (“Respondent”). The Department and the Division have before them sufficient evidence that, if not rebutted or satisfactorily explained at a formal hearing, will justify the Department and the Division revoking, suspending, issuing fines, or taking other disciplinary action against the Respondent’s license. If Respondent does not request a hearing within twenty days after service of this Notice of Contemplated Action (“Notice”), the Department and the Division will proceed to take the action contemplated in this Notice, and such action will be final and not subject to judicial review. Respondent may also request a settlement conference to determine whether a compromise of the penalty may be reached.

APPLICABLE LAW

1. Respondent is licensed pursuant to the Cannabis Regulation Act (“CRA”), NMSA 1978, Sections 26-2C-1 to -42 (2021), and as such is subject to the jurisdiction of the Department and Division. The Department and Division have jurisdiction over this disciplinary action pursuant to the Uniform Licensing Act (“ULA”), NMSA 1978, Sections 61-1-1 to -36 (1957, as amended through 2021).
2. This Notice is based upon the following alleged statutory or regulatory violation(s):

VIOLATION #1: Failure to Allow Access to Facility

RULE CITATION OF VIOLATION: 16.8.2.20(C) NMAC

DESCRIPTION OF VIOLATION #1 AS IT PERTAINS TO RULE:

Licensees shall provide the division timely access to any material and information necessary for determining compliance with division rules or applicable law. Respondent fled from compliance officers into the facility as the officers approached to conduct a routine inspection. Respondent did not emerge from the facility and as a result, officers could not conduct an inspection of the facility.

VIOLATION #2: Operating without Required Business License

RULE CITATION OF VIOLATION: 16.8.2.10(A) NMAC

DESCRIPTION OF VIOLATION #2 AS IT PERTAINS TO RULE:

Licensees are required to comply with all applicable state and local laws that do not conflict with the Cannabis Regulation Act or the Lynn and Erin Compassionate Use Act, including, but not limited to, construction and building codes, operation of a cannabis establishment, zoning, building and fire codes, and business or professional licensing. Respondent does not have a business license, which is required prior to engaging in any commercial activity, cannabis or otherwise.

SUMMARY OF THE EVIDENCE AGAINST RESPONDENTS

3. The general nature of the evidence before the Division is as follows:
 - a. Witness testimony provided by division staff;
 - b. Photographs of Respondent's premise captured by division staff;
 - c. Documentation of the site visit by division staff.

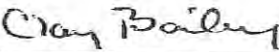
RIGHTS AND OBLIGATIONS OF RESPONDENT

4. **Unless Respondent requests a formal hearing, the evidence before the Division is sufficient to justify the Division in taking the contemplated action.**
5. The formal hearing, if requested, will be conducted pursuant to the ULA as provided by Section 61-1-8. Section 61-1-8 provides that:
 - A. A person entitled to be heard under the Uniform Licensing shall have the right to be represented by counsel or by a licensed member of his own profession or occupation, or both; to present all relevant evidence by means of witnesses and books, papers, documents and other evidence; to examine all opposing witnesses who appear on any matter relevant to the issues; and to have subpoenas and subpoenas duces tecum issued as of right prior to the commencement of the hearing to compel discovery and the attendance of witnesses and the production of relevant books, papers, documents and other evidence upon making written request therefor to the Division or hearing officer. The issuance of such subpoenas after the commencement of the hearing rests in the discretion of the Division or the hearing officer. All notices issued pursuant to Section 61-1-4 NMSA 1978 shall contain a statement of these rights.
 - B. Upon written request to another party, any party is entitled to:
 - (1) obtain the names and addresses of witnesses who will or may be called by the other party to testify at the hearing; and
 - (2) inspect and

copy any documents or items which the other party will or may introduce in evidence at the hearing. The party to whom such a request is made shall comply with it within ten days after the mailing or delivery of the request. No request shall be made less than fifteen days before the hearing.

- C. Any party may take depositions after service of notice in accordance with the Rules of Civil Procedure for the District Courts. Depositions may be used as in proceedings governed by those rules.
6. **If Respondent does not request a hearing in this matter, the Division will take the contemplated action by default. See § 61-1-4(D)(3). If no hearing is requested, this disciplinary action will not be subject to judicial review. See § 61-1-4(E).**
7. To request a hearing in this matter Respondent must deposit in the mail a certified return receipt requested letter addressed to the Division containing a request for a hearing within twenty days after services of this notice. See § 61-1-4(D)(3). A written request for a hearing should be sent to the following address:

Robert Sachs, Division Counsel
Cannabis Control Division
2550 Cerrillos Road
Santa Fe, NM 87505

 on behalf of Superintendent Trujillo
Linda Trujillo, Superintendent
Cannabis Control Division

Prepared by:

Robert Sachs
Division Counsel
Cannabis Control Division, Regulation and Licensing Department
1209 Camino Carlos Rey
Santa Fe, NM 87504
Robert.Sachs@rld.nm.gov
(505) 948-8609

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was mailed to Respondent by United States Postal Service Certified Mail, return receipt requested, on this 12th day of October 2023 to the following:

Bien Loca Industries LLC.,
8127 Corte del Viento NW
Albuquerque, NM 87120

Certified Mail No: 9171 9690 0935 0299 2456 46
Return Receipt Requested

I hereby certify that a true and correct copy of the foregoing was e-mailed, on this 12th day of October 2023 to the following:

Bien Loca Industries LLC.,
Respondent
Email: bienlocallc@gmail.com

By: Victoria Kaniatobe
Victoria Kaniatobe
Law Clerk
Cannabis Control Division

BEFORE THE CANNABIS CONTROL DIVISION
FOR THE STATE OF NEW MEXICO

IN THE MATTER OF:

Case No. 2023-016

The Pot Hole, LLC.,
License Nos. CCD-2023-0369,
CCD-2022-0172

Respondent(s).

NOTICE OF CONTEMPLATED ACTION

TAKE NOTICE that the Superintendent of the Regulation and Licensing Department (“Department”) and the Cannabis Control Division (“Division”) is contemplating taking disciplinary action against the license held by The Pot Hole, LLC, (“Respondent”). The Department and the Division have before them sufficient evidence that, if not rebutted or satisfactorily explained at a formal hearing, will justify the Department and the Division revoking, suspending, issuing fines, or taking other disciplinary action against the Respondent’s license. If Respondent does not request a hearing within twenty days after service of this Notice of Contemplated Action (“Notice”), the Department and the Division will proceed to take the action contemplated in this Notice, and such action will be final and not subject to judicial review. Respondent may also request a settlement conference to determine whether a compromise of the penalty may be reached.

APPLICABLE LAW

1. Respondent is licensed pursuant to the Cannabis Regulation Act (“CRA”), NMSA 1978, Sections 26-2C-1 to -42 (2021), and as such is subject to the jurisdiction of the Department and Division. The Department and Division have jurisdiction over this disciplinary action pursuant to the Uniform Licensing Act (“ULA”), NMSA 1978, Sections 61-1-1 to -36 (1957, as amended through 2021).
2. This Notice is based upon the following alleged statutory or regulatory violation(s):

VIOLATION #1: Illegal Sale or Distribution of Cannabis

RULE CITATION OF VIOLATION: 16.8.2.8(E) NMAC and 16.8.7.13 NMAC

DESCRIPTION OF VIOLATION #1 AS IT PERTAINS TO RULE:

Licensees shall not knowingly and intentionally sell, deliver, or transport cannabis or cannabis products to any person that is not authorized to possess and receive the cannabis or cannabis products pursuant to state law or division rules. Respondent had on its premises, cannabis product originating from outside the state of New Mexico. Respondent also had evidence of illegally moving large amounts of cannabis and cannabis product illegally between themselves and cannabis licensee, Sawmill Sweet Leaf LLC.

VIOLATION #2: Improper Use of the Required Track and Trace System
RULE CITATION OF VIOLATION: 16.8.7.10(D), (E) NMAC and 16.8.7.11(A)
NMAC

DESCRIPTION OF VIOLATION #2 AS IT PERTAINS TO RULE:

All track and trace activities of a licensee must be tracked through the track and trace system. Respondent was improperly manifesting cannabis and cannabis product using the state required, online inventory tracking system, BioTrack.

VIOLATION #3: Improper Chain of Custody
RULE CITATION OF VIOLATION: 16.8.2.12(A) NMAC

DESCRIPTION OF VIOLATION #3 AS IT PERTAINS TO RULE:

Licensees shall adopt, maintain, and enforce chain of custody procedures and documentation requirements to ensure appropriate tracking and tracing of cannabis and cannabis products. Respondent's digital inventory did not match their physical inventory and there was no evidence of proper chain of custody materials to support the digital movement of product.

VIOLATION #4: Improper Transportation of Cannabis
RULE CITATION OF VIOLATION: 16.8.2.13(A)(1)(2), (B)(1) – (4), (D), and (H)
NMAC

DESCRIPTION OF VIOLATION #4 AS IT PERTAINS TO RULE:

Licensees are required to ensure that all cannabis entering the licensed premises from other licensees is properly recorded and tracked. Licensees are also required to ensure that all cannabis exiting the licensed premises to other licensees is properly recorded and tracked. Licensees must also ensure cannabis is accurately packaged and transported. Respondent's transport documentation suggested that massive amounts of cannabis were moved between its location and Sawmill Sweet Leaf without any evidence of proper transportation or verification of proper protocols between the two facilities.


SUMMARY OF THE EVIDENCE AGAINST RESPONDENTS

3. The general nature of the evidence before the Division is as follows:
 - a. Witness testimony provided by division staff;
 - b. Written communication between Respondent and division staff;
 - c. Photographs of Respondent's premise captured by division staff; and
 - d. Documentation of the site visit by division staff.

RIGHTS AND OBLIGATIONS OF RESPONDENT

4. **Unless Respondent requests a formal hearing, the evidence before the Division is sufficient to justify the Division in taking the contemplated action.**
5. The formal hearing, if requested, will be conducted pursuant to the ULA as provided by Section 61-1-8. Section 61-1-8 provides that:
 - A. A person entitled to be heard under the Uniform Licensing shall have the right to be represented by counsel or by a licensed member of his own profession or occupation, or both; to present all relevant evidence by means of witnesses and books, papers, documents and other evidence; to examine all opposing witnesses who appear on any matter relevant to the issues; and to have subpoenas and subpoenas duces tecum issued as of right prior to the commencement of the hearing to compel discovery and the attendance of witnesses and the production of relevant books, papers, documents and other evidence upon making written request therefor to the Division or hearing officer. The issuance of such subpoenas after the commencement of the hearing rests in the discretion of the Division or the hearing officer. All notices issued pursuant to Section 61-1-4 NMSA 1978 shall contain a statement of these rights.
 - B. Upon written request to another party, any party is entitled to: (1) obtain the names and addresses of witnesses who will or may be called by the other party to testify at the hearing; and (2) inspect and copy any documents or items which the other party will or may introduce in evidence at the hearing. The party to whom such a request is made shall comply with it within ten days after the mailing or delivery of the request. No request shall be made less than fifteen days before the hearing.
 - C. Any party may take depositions after service of notice in accordance with the Rules of Civil Procedure for the District Courts. Depositions may be used as in proceedings governed by those rules.
6. **If Respondent does not request a hearing in this matter, the Division will take the contemplated action by default. See § 61-1-4(D)(3). If no hearing is requested, this disciplinary action will not be subject to judicial review. See § 61-1-4(E).**
7. To request a hearing in this matter Respondent must deposit in the mail a certified return receipt requested letter addressed to the Division containing a request for a hearing within twenty days after services of this notice. See § 61-1-4(D)(3). A written request for a hearing should be sent to the following address:

Robert Sachs, Division Counsel
Cannabis Control Division
2550 Cerrillos Road
Santa Fe, NM 87505

 on behalf of Superintendent Trujillo

Linda Trujillo, Superintendent
Cannabis Control Division

Prepared by:

Robert Sachs
Division Counsel
Cannabis Control Division, Regulation and Licensing Department
1209 Camino Carlos Rey
Santa Fe, NM 87504
Robert.Sachs@rld.nm.gov
(505) 948-8609

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was mailed to Respondent by United States Postal Service Certified Mail, return receipt requested, on this 12th day of October 2023 to the following:

The Pot Hole LLC.,
1623 South First St. Suite B
Clayton, NM 88415

Certified Mail No 9171 9690 0935 0299 2455 47
Return Receipt Requested

I hereby certify that a true and correct copy of the foregoing was e-mailed, on this 12th day of October 2023 to the following:

The Pot Hole LLC.,
Respondent
Email: thetumbleweednm@gmail.com

By: Victoria Kaniatobe
Victoria Kaniatobe
Law Clerk
Cannabis Control Division

New Mexico Register / Volume XXXII, Issue 23 / December 14, 2021

This is an emergency amendment to 16.8.2 NMAC, amending Sections 27 and 30, effective 12/2/2021.

16.8.2.27 MINIMUM REQUIREMENTS FOR THE PRODUCTION OF CANNABIS:

- A. General requirements:** Licensees shall ensure the following:
- (1) all production activities are done on premises that are in compliance with state and local laws that do not conflict with the Cannabis Regulation Act or the Lynn and Erin Compassionate Use Acts;
 - (2) the licensee's right to use the quantity of water sufficient to meet the production facility's needs remains in good standing;
 - (3) plumbing shall be of adequate size and design, adequately installed, and maintained to carry sufficient quantities of water to required locations throughout the facility, including sufficient quantities of water to properly convey sewage and liquid disposable waste from the facility; and
 - (4) all weighting or measuring devices that are used in the wholesale of cannabis be appropriately documented as having undergone certified registration and calibration that is in accordance with applicable requirements of the New Mexico department of agriculture.
- B. Cultivation plan:** Licensees shall create and maintain a cultivation plan, which shall include all of the following:
- (1) a detailed premises diagram showing all cultivation activity areas, boundaries, and dimensions in feet.
 - (2) square foot measurement of mature cannabis plant cultivation area(s), including aggregate square footage if the mature cannabis plant cultivation areas are noncontiguous;
 - (3) area(s) outside of the mature cannabis plant cultivation areas where only immature plants shall be maintained, if applicable;
 - (4) designated pesticide and other agricultural chemical storage area(s);
 - (5) designated processing area(s) if the licensee will process on site;
 - (6) designated packaging area(s) if the licensee will package products on site;
 - (7) designated composting area(s) if the licensee will compost plant or cannabis waste on site;
 - (8) designated secured area(s) for cannabis waste if different than composting area(s);
 - (9) designated area(s) for harvested cannabis storage;
 - (10) designated seed production area(s) which may contain mature plants for nursery purposes only.
- C. Lighting:** For indoor and mixed-light cultivation, a licensee shall create and maintain a lighting diagram, which shall include the following:
- (1) location of all lights in the cannabis plant cultivation area(s); and
 - (2) maximum wattage, or wattage equivalent, of each light.
- D. Pest management:** Licensees shall create and maintain a pest management plan, which shall include product name and active ingredient(s) of all pesticides to be applied to cannabis during any stage of plant growth. Licensees are encouraged to create and implement integrated pest management protocols, including chemical, biological, and cultural methods to control or prevent the introduction of pests on the cultivation site.
- E. Cannabis waste:** Licensees shall create and maintain cannabis waste procedures meeting the requirements set forth in 16.8.2.22 NMAC.
- F. Safety and health requirements:** Licensees shall ensure the following:
- (1) all equipment, implements, and fixtures that are used for the production of cannabis shall be used exclusively for the production of cannabis and meet sanitation and safety standards required by the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, division rules, and any other state or federal laws;
 - (2) production is conducted in a manner that does not allow cross-contamination from chemical or biological hazards;
 - (3) any person who, by medical examination or supervisory observation, is shown to have, or appears to have, an illness, open lesion, including a boil, sore, or infected wound, or any other abnormal source of microbial contamination for whom there is a reasonable possibility of contact with preparation surfaces for cannabis, shall be excluded from any operations which may be anticipated to result in such contamination until the condition is corrected;
 - (4) hand-washing facilities are provided that are adequate, accessible, furnished with running water at a suitable temperature, conveniently located in indoor production facilities, in restrooms, and

wherever good sanitary practices require employees to wash or sanitize their hands, and stocked with effective hand-cleaning and sanitizing preparations, and sanitary towel service or suitable drying devices;

(5) all persons involved in preparing or handling cannabis conform to hygienic practices while on duty, including:

- (a) maintaining adequate personal cleanliness;
- (b) wearing gloves while handling processed cannabis or unpackaged but processed cannabis products;
- (c) possessing a valid food handler card issued by an ANSI/ASTM e2659-09 accredited Food Handler Training Certificate Program approved by the New Mexico environment department if handling processed cannabis or unpackaged but processed cannabis products; and
- (d) washing hands thoroughly in an adequate hand-washing facility before starting work, at any other time when the hands may have become soiled or contaminated, and both before putting gloves on and after removal of gloves, if the person is handling processed cannabis or unpackaged but processed cannabis products;
- (6) operating systems for waste disposal are maintained in an adequate manner so that they do not constitute a source of contamination in areas where cannabis is exposed;
- (7) water damage is properly and timely treated to protect health and safety of employees and the public, and that fiberglass and other insulation material is not exposed;
- (8) adequate safety-type lighting in all areas where cannabis is produced or stored, if applicable, and where equipment is cleaned;
- (9) rubbish is disposed of so as to minimize the development of odor, minimize the potential for the waste becoming an attractant and harborage, or breeding place for pests;
- (10) premises, fixtures, and physical facilities where cannabis or cannabis products are produced are maintained to ensure the health and safety of employee and the public;
- (11) contact surfaces, including utensils and equipment used for preparation of cannabis or cannabis products, are cleaned and sanitized as frequently as necessary to protect against contamination;
- (12) only environmental protection agency (EPA) registered sanitizing agents are used in production operations and that they are used in accordance with labeled instructions;
- (13) toxic cleaning compounds, sanitizing agents, and pesticide chemicals shall be identified, held, and stored in a manner that protects against contamination of cannabis or cannabis products and that otherwise satisfies the requirements of this rule;
- (14) storage and transportation of cannabis and cannabis products is accomplished under conditions that will maintain security and protect the cannabis or cannabis products against physical, chemical, and microbial contamination, as well as against deterioration of the cannabis or cannabis products and the container;
- (15) that there is sufficient space for placement of equipment and storage of material as is necessary for the maintenance of sanitary operations for production of cannabis.

[16.8.2.27 NMAC - N, 08/24/2021; A/E, 12/2/2021]

16.8.2.30 APPLICATION REQUIREMENTS FOR CANNABIS MANUFACTURER LICENSE:

A. An initial application or renewal for cannabis manufacturer licensure shall include the following:

- (1) Contact information for the applicant and the cannabis establishment, to include:
 - (a) applicant's full legal name;
 - (b) applicant's mailing address;
 - (c) applicant's contact telephone number;
 - (d) applicant's contact email address;
 - (e) applicant's business physical address and mailing address, if different;
 - (f) applicant's business legal name, including a DBA name if applicable;
 - (g) applicant's business web address, if applicable;
 - (h) applicant's business hours of operation;
 - (i) name and contact information for each controlling person;
 - (j) demographic data pursuant to the Cannabis Regulation Act; and
 - (k) license type sought (Class I, Class II, Class III, or Class IV);
- (2) proof the applicant or each controlling person is at least 21 years of age, which shall include identification issued by a federal or state government that includes the name, date of birth, and picture of the applicant or controlling person;
- (3) legible and accurate diagram containing information required by Subsection 16.8.2.32 NMAC and description of the location of the land or facility to be used for the cannabis establishment and the method(s) to be used to manufacture cannabis (extraction, infusion, packaging, labeling), including a description

of extraction and infusion methods, in a portable document format (.pdf), and if requested by the division, digital photographic photos;

(4) fully executed and dated documentation of the applicant's ownership or legal authority to use the property, buildings, or other facilities, establishing the applicant is, or will be, entitled to possession of the premises for which the application is made;

(5) demonstration of a legal right to use the quantity of water that the division determines is needed for cannabis manufacturing, as evidenced by either:

(a) documentation from a water provider that the applicant has the right to use water from the provider and that the use of water for cannabis manufacturing is compliant with provider's rules, or

(b) documentation from the office of the state engineer showing that the applicant has a valid and existing water right, or a permit to develop a water right, at the proposed place of use of the cannabis establishment. The documentation may include any of the following:

(i) a state engineer permit or license in good standing, but not including a permit issued pursuant to Sections 72-12-1, -1.1, -1.2, or -1.3, NMSA 1978;

(ii) a subfile order or decree issued by a water rights adjudication court;

(iii) the findings of an office of the state engineer hydrographic survey; or

(iv) other documentation the office of the state engineer has deemed in writing as acceptable to the office of the state engineer under this rule.

(6) a copy of a current business license, fire inspection report, and zoning approval;

(7) if applicable, certification the applicant is in good standing with the New Mexico secretary of state, including all documents filed with the New Mexico secretary of state;

(8) a list of all controlling persons, a list of other current or prior licensed cannabis businesses, documentation of the applicant's or a controlling person legal name change, and criminal history screening documents as set forth in 16.8.2.9 NMAC and the Cannabis Regulation Act;

(9) a detailed description of any criminal convictions of the applicant and any controlling person, including the date of each conviction, dates of incarceration, probation or parole, if applicable, description of the offense, and statement of rehabilitation of each conviction;

(10) a list of the types of products that will be manufactured, packaged, or labeled;

(11) a complete written description of good manufacturing practices (GMPs).

(12) a complete written description of the means that the manufacturer shall employ to safely manufacture cannabis products, including hygiene standards consistent with the requirements of the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, division rules, and other state or federal rules applicable to manufacturing;

(13) A detailed description of the licensee's proposed plan for obtaining cannabis from a licensed cannabis producer or cannabis microproducer.

(14) legible electronic images of the labeling and packaging of the cannabis or cannabis products that the manufacturer shall utilize, which satisfies the labeling and packaging requirements of the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, division rules, and other state or federal rules applicable to labeling and packaging;

(15) if applicable, proof of prior approval by the New Mexico regulation and licensing department for the use of any compressed gas extraction equipment to be utilized by the manufacturer;

(16) if applicable, a sample of the record form(s), which shall identify (among other items) the name of the wholesale purchaser, the date of the sale, the quantity, and price of cannabis sold;

(17) certification the applicant will adhere to manufacturing requirements pursuant to the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules;

(18) certification the applicant will adhere to cannabis transport requirements pursuant to the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules;

(19) certification the applicant will adhere to security requirements pursuant to the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules;

(20) certification the applicant will adhere to quality assurance requirements pursuant to the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules;

(21) certification the applicant will adhere to applicable federal, state and local laws governing the protection of public health and the environment, including occupational health and safety, food

safety, fire safety, environmental impacts, natural resource protections, air quality, solid and hazardous waste management, and wastewater discharge;

(22) certification the applicant has never been denied a license or had a license suspended or revoked by the division or any other state cannabis licensing authority or a detailed description of any administrative orders, civil judgements, denial or suspension of a cannabis license, revocation of a cannabis license, or sanctions for unlicensed cannabis activity by any state licensing authority, against the applicant, controlling person, or a business entity in which the applicant or controlling person was a controlling person within the three years immediately preceding the date of the application;

(23) certification the applicant is not licensed under the Liquor Control Act.

(24) applicant's social and economic equity plan to encourage economic and social diversity in employment, including race, ethnicity, gender, age, and residential status of licensee, controlling persons and employees of applicant and whether the applicant, controlling persons, employees or the locations where the cannabis products are produced are located in an underserved rural community, including tribal, acequia, land grant-merced, federally designated opportunity zone, or other rural historic communities;

(25) an attestation that the manufacturer will not use dimethylsulfoxide (DMSO) in the production of cannabis products, and will not possess DMSO on the premises of the manufacturer;

(26) an attestation of the following statement: Under penalty of perjury, I hereby declare that the information contained within and submitted with the application is complete, true and accurate. I understand that a misrepresentation of fact or violation of these rules may result in denial of the license application or revocation of a license issued; and

(27) for a class IV license, a signed attestation from a licensed engineer stating the chemical extraction equipment is a closed loop system, is being utilized for its intended use and meets requirements of subsection I of 16.8.2.34 NMAC;

(28) for class II, III, and IV licenses, evidence that the applicant has completed the self-certification required for the production of edibles and topicals from the New Mexico environment department and ~~[that such permits are valid]~~ provide confirmation from the New Mexico environment department at the time the license application is submitted; and

(29) payment of any required fees as set forth in 16.8.11 NMAC.

B. Verification of information: The division may verify information contained in each application and accompanying documentation by:

(1) contacting the applicant or controlling person by telephone, mail, or electronic mail;

(2) conducting an on-site visit;

(3) requiring a face-to-face or virtual meeting and the production of additional documentation; or

(4) consulting with state or local governments.

C. Trade secrets: Any applicant submitting operating procedures and protocols to the division pursuant to the Lynn and Erin Compassionate Use Act, the Cannabis Regulation Act, or division rules, may claim such information as a trade secret or confidential by clearly identifying such information as "confidential" on the document at the time of submission. Any claim of confidentiality by an applicant must be based on the applicant's good faith belief that the information marked as confidential constitutes a trade secret as defined in the Uniform Trade Secrets Act, Sections 57-3A-1 to -7, NMSA 1978. In the event the division receives a request to inspect such documents, the division will notify the applicant or licensee, via the current email of record. If the division does not receive an injunction pursuant to the Uniform Trade Secrets Act within five days of the request to inspect, the division will make the documents marked confidential available for inspection as required pursuant to the Inspection of Public Records Act.

[16.8.2.30 NMAC – N/E, 09/08/2021; A/E, 12/2/2021]

New Mexico Register / Volume XXXII, Issue 24 / December 28, 2021

This is an amendment to 16.8.2 NMAC, amending and renumbering Sections 29 to Section 43 and adding new Sections 36 through 43, effective 12/28/2021.

16.8.2.29 CANNABIS MANUFACTURER LICENSURE; GENERAL PROVISIONS:

- ~~[A. **License Types:** The division may license four classes of manufacture:~~
- ~~(1) Class I: A licensee that only packages or repackages cannabis products, or labels or relabels the cannabis product container;~~
- ~~(2) Class II: A licensee that conducts Class I activities, and manufactures edible products or topical products using infusion processes, or other types of cannabis products other than extracts or concentrates, and does not conduct extractions;~~
- ~~(3) Class III: A licensee that conducts Class I and Class II activities, and extracts using mechanical methods or nonvolatile solvents; and~~
- ~~(4) Class IV: A licensee that conducts Class I, Class II, and Class III activities, and extracts using volatile solvents or supercritical CO₂.~~
- ~~B. **Division application forms:** All applications for licensure authorized pursuant to the Cannabis Regulation Act shall be made upon current forms prescribed by the division using the online application portal.~~
- ~~C. **License required:** Unless licensed pursuant to the Cannabis Regulation Act and division rules, a person shall not manufacture cannabis extract, unless for personal use pursuant to Section 26-2C-31, NMSA.~~
- ~~D. **Other activities prohibited:** Except as provided in Subsection BB of 16.8.2.8 NMAC, no cannabis manufacturer establishment licensee may produce cannabis, courier cannabis or cannabis products, or engage in the retail sale of cannabis or cannabis products unless the licensee has properly applied for, and the division has approved, the applicable license type required for those activities.~~
- ~~E. **Prohibited additives:** A manufacturer shall not manufacture or distribute a product that is intended to be consumed by inhalation that includes polyethylene glycol, polypropylene glycol, vitamin E acetate, or medium chain triglycerides. A manufacturer shall not combine nicotine, caffeine, or any other addictive substance with a cannabis product. This prohibition shall not apply to the combination of cannabis with sugar, or a product in which caffeine is naturally occurring, such as coffee, tea, or chocolate.]~~
- A. **License Types:** The division may license four classes of manufacture:
- (1) Class I: A licensee that only packages or repackages cannabis products, or labels or relabels the cannabis product container;
- (2) Class II: A licensee that conducts Class I activities, and manufactures edible products or topical products using infusion processes, or other types of cannabis products other than extracts or concentrates, and does not conduct extractions;
- (3) Class III: A licensee that conducts Class I and Class II activities, and extracts using mechanical methods or nonvolatile solvents; and
- (4) Class IV: A licensee that conducts Class I, Class II, and Class III activities, and extracts using volatile solvents or supercritical CO₂.
- B. **Division application forms:** All applications for licensure authorized pursuant to the Cannabis Regulation Act shall be made upon current forms prescribed by the division using the online application portal.
- C. **License required:** Unless licensed pursuant to the Cannabis Regulation Act and division rules, a person shall not manufacture cannabis extract, unless for personal use pursuant to Section 26-2C-31, NMSA.
- D. **Other activities prohibited:** Except as provided in Subsection BB of 16.8.2.8 NMAC, no cannabis manufacturer establishment licensee may produce cannabis, courier cannabis or cannabis products, or engage in the retail sale of cannabis or cannabis products unless the licensee has properly applied for, and the division has approved, the applicable license type required for those activities.

E. Prohibited additives: A manufacturer shall not manufacture or distribute a product that is intended to be consumed by inhalation that includes polyethylene glycol, polypropylene glycol, vitamin E acetate, or medium chain triglycerides. A manufacturer shall not combine nicotine, caffeine, or any other addictive substance with a cannabis product. This prohibition shall not apply to the combination of cannabis with sugar, or a product in which caffeine is naturally occurring, such as coffee, tea, or chocolate.

[16.8.2.29 NMAC – N/E, 09/08/2021; N, 12/28/2021]

16.8.2.30 APPLICATION REQUIREMENTS FOR CANNABIS MANUFACTURER LICENSE:

[A.] An initial application or renewal for cannabis manufacturer licensure shall include the following:

- (1)** Contact information for the applicant and the cannabis establishment, to include:
 - (a)** applicant's full legal name;
 - (b)** applicant's mailing address;
 - (c)** applicant's contact telephone number;
 - (d)** applicant's contact email address;
 - (e)** applicant's business physical address and mailing address, if different;
 - (f)** applicant's business legal name, including a DBA name if applicable;
 - (g)** applicant's business web address, if applicable;
 - (h)** applicant's business hours of operation;
 - (i)** name and contact information for each controlling person;
 - (j)** demographic data pursuant to the Cannabis Regulation Act; and
 - (k)** license type sought (Class I, Class II, Class III, or Class IV);
- (2)** proof the applicant or each controlling person is at least 21 years of age, which shall include identification issued by a federal or state government that includes the name, date of birth, and picture of the applicant or controlling person;
- (3)** legible and accurate diagram containing information required by Subsection 16.8.2.32 NMAC and description of the location of the land or facility to be used for the cannabis establishment and the method(s) to be used to manufacture cannabis (extraction, infusion, packaging, labeling), including a description of extraction and infusion methods, in a portable document format (.pdf), and if requested by the division, digital photographic photos;
- (4)** fully executed and dated documentation of the applicant's ownership or legal authority to use the property, buildings, or other facilities, establishing the applicant is, or will be, entitled to possession of the premises for which the application is made;
- (5)** demonstration of a legal right to use the quantity of water that the division determines is needed for cannabis manufacturing, as evidenced by either:
 - (a)** documentation from a water provider that the applicant has the right to use water from the provider and that the use of water for cannabis manufacturing is compliant with provider's rules; or
 - (b)** documentation from the office of the state engineer showing that the applicant has a valid and existing water right, or a permit to develop a water right, at the proposed place of use of the cannabis establishment. The documentation may include any of the following:
 - (i)** a state engineer permit or license in good standing, but not including a permit issued pursuant to Sections 72-12-1, -1.1, -1.2, or -1.3, NMSA 1978;
 - (ii)** a subfile order or decree issued by a water rights adjudication court;
 - (iii)** the findings of an office of the state engineer hydrographic survey; or
 - (iv)** other documentation the office of the state engineer has deemed in writing as acceptable to the office of the state engineer under this rule.
- (6)** a copy of a current business license, fire inspection report, and zoning approval;
- (7)** if applicable, certification the applicant is in good standing with the New Mexico secretary of state, including all documents filed with the New Mexico secretary of state;

- _____ (8) _____ a list of all controlling persons, a list of other current or prior licensed cannabis businesses, documentation of the applicant's or a controlling person legal name change, and criminal history screening documents as set forth in 16.8.2.9 NMAC and the Cannabis Regulation Act;
- _____ (9) _____ a detailed description of any criminal convictions of the applicant and any controlling person, including the date of each conviction, dates of incarceration, probation or parole, if applicable, description of the offense, and statement of rehabilitation of each conviction;
- _____ (10) _____ a list of the types of products that will be manufactured, packaged, or labeled;
- _____ (11) _____ a complete written description of good manufacturing practices (GMPs);
- _____ (12) _____ a complete written description of the means that the manufacturer shall employ to safely manufacture cannabis products, including hygiene standards consistent with the requirements of the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, division rules, and other state or federal rules applicable to manufacturing;
- _____ (13) _____ A detailed description of the licensee's proposed plan for obtaining cannabis from a licensed cannabis producer or cannabis microproducer.
- _____ (14) _____ legible electronic images of the labeling and packaging of the cannabis or cannabis products that the manufacturer shall utilize, which satisfies the labeling and packaging requirements of the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, division rules, and other state or federal rules applicable to labeling and packaging;
- _____ (15) _____ if applicable, proof of prior approval by the New Mexico regulation and licensing department for the use of any compressed gas extraction equipment to be utilized by the manufacturer;
- _____ (16) _____ if applicable, a sample of the record form(s), which shall identify (among other items) the name of the wholesale purchaser, the date of the sale, the quantity, and price of cannabis sold;
- _____ (17) _____ certification the applicant will adhere to manufacturing requirements pursuant to the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules;
- _____ (18) _____ certification the applicant will adhere to cannabis transport requirements pursuant to the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules;
- _____ (19) _____ certification the applicant will adhere to security requirements pursuant to the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules;
- _____ (20) _____ certification the applicant will adhere to quality assurance requirements pursuant to the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules;
- _____ (21) _____ certification the applicant will adhere to applicable federal, state and local laws governing the protection of public health and the environment, including occupational health and safety, food safety, fire safety, environmental impacts, natural resource protections, air quality, solid and hazardous waste management, and wastewater discharge;
- _____ (22) _____ certification the applicant has never been denied a license or had a license suspended or revoked by the division or any other state cannabis licensing authority or a detailed description of any administrative orders, civil judgements, denial or suspension of a cannabis license, revocation of a cannabis license, or sanctions for unlicensed cannabis activity by any state licensing authority, against the applicant, controlling person, or a business entity in which the applicant or controlling person was a controlling person within the three years immediately preceding the date of the application;
- _____ (23) _____ certification the applicant is not licensed under the Liquor Control Act.
- _____ (24) _____ applicant's social and economic equity plan to encourage economic and social diversity in employment, including race, ethnicity, gender, age, and residential status of licensee, controlling persons and employees of applicant and whether the applicant, controlling persons, employees or the locations where the cannabis products are produced are located in an underserved rural community, including tribal, acequia, land grant-merced, federally designated opportunity zone, or other rural historic communities;
- _____ (25) _____ an attestation that the manufacturer will not use dimethylsulfoxide (DMSO) in the production of cannabis products, and will not possess DMSO on the premises of the manufacturer;
- _____ (26) _____ an attestation of the following statement: Under penalty of perjury, I hereby declare that the information contained within and submitted with the application is complete, true and accurate. I understand that a misrepresentation of fact or violation of these rules may result in denial of the license application or revocation of a license issued; and

_____ (27) _____ for a class IV license, a signed attestation from a licensed engineer stating the chemical extraction equipment is a closed loop system, is being utilized for its intended use and meets requirements of subsection I of 16.8.2.34 NMAC;

_____ (28) _____ for class II, III, and IV licenses, evidence that the applicant has completed the self-certification required for the production of edibles and topicals from the New Mexico environment department and provide confirmation from the New Mexico environment department at the time the license application is submitted; and

_____ (29) _____ payment of any required fees as set forth in 16.8.11 NMAC.

_____ **B. Verification of information:** The division may verify information contained in each application and accompanying documentation by:

_____ (1) _____ contacting the applicant or controlling person by telephone, mail, or electronic mail;

_____ (2) _____ conducting an on-site visit;

_____ (3) _____ requiring a face-to-face or virtual meeting and the production of additional documentation; or

_____ (4) _____ consulting with state or local governments.

_____ **C. Trade secrets:** Any applicant submitting operating procedures and protocols to the division pursuant to the Lynn and Erin Compassionate Use Act, the Cannabis Regulation Act, or division rules, may claim such information as a trade secret or confidential by clearly identifying such information as “confidential” on the document at the time of submission. Any claim of confidentiality by an applicant must be based on the applicant’s good faith belief that the information marked as confidential constitutes a trade secret as defined in the Uniform Trade Secrets Act, Sections 57-3A-1 to -7, NMSA 1978. In the event the division receives a request to inspect such documents, the division will notify the applicant or licensee, via the current email of record. If the division does not receive an injunction pursuant to the Uniform Trade Secrets Act within five days of the request to inspect, the division will make the documents marked confidential available for inspection as required pursuant to the Inspection of Public Records Act.]

_____ **A.** An initial application or renewal for cannabis manufacturer licensure shall include the following:

_____ (1) Contact information for the applicant and the cannabis establishment, to include:

_____ (a) applicant’s full legal name;

_____ (b) applicant’s mailing address;

_____ (c) applicant’s contact telephone number;

_____ (d) applicant’s contact email address;

_____ (e) applicant’s business physical address and mailing address, if different;

_____ (f) applicant’s business legal name, including a DBA name if applicable;

_____ (g) applicant’s business web address, if applicable;

_____ (h) applicant’s business hours of operation;

_____ (i) name and contact information for each controlling person;

_____ (j) demographic data pursuant to the Cannabis Regulation Act; and

_____ (k) license type sought (Class I, Class II, Class III, or Class IV);

_____ (2) proof the applicant or each controlling person is at least 21 years of age, which shall include identification issued by a federal or state government that includes the name, date of birth, and picture of the applicant or controlling person;

_____ (3) legible and accurate diagram containing information required by 16.8.2.32 NMAC and description of the location of the land or facility to be used for the cannabis establishment and the method(s) to be used to manufacture cannabis (extraction, infusion, packaging, labeling), including a description of extraction and infusion methods, in a portable document format (.pdf), and if requested by the division, digital photographic photos;

_____ (4) demonstration of a legal right to use the quantity of water that the division determines is needed for cannabis manufacturing, as evidenced by either:

_____ (a) documentation from a water provider that the applicant has the right to use water from the provider and that the use of water for cannabis manufacturing is compliant with provider’s rules,
or

(b) documentation from the office of the state engineer showing that the applicant has a valid and existing water right, or a permit to develop a water right, at the proposed place of use of the cannabis establishment. The documentation may include any of the following:

(i) a state engineer permit or license in good standing, but not including a permit issued pursuant to Sections 72-12-1, -1.1, -1.2, or -1.3, NMSA 1978;

(ii) a subfile order or decree issued by a water rights adjudication court;

(iii) the findings of an office of the state engineer hydrographic survey; or

(iv) other documentation the office of the state engineer has deemed in writing as acceptable to the office of the state engineer under this rule;

(5) if applicable, certification the applicant is in good standing with the New Mexico secretary of state, including all documents filed with the New Mexico secretary of state;

(6) a list of all controlling persons, a list of other current or prior licensed cannabis businesses, documentation of the applicant's or a controlling person legal name change, and criminal history screening documents as set forth in 16.8.2.9 NMAC and the Cannabis Regulation Act;

(7) a detailed description of any criminal convictions of the applicant and any controlling person, including the date of each conviction, dates of incarceration, probation or parole, if applicable, description of the offense, and statement of rehabilitation of each conviction;

(8) if applicable, proof of prior approval by the New Mexico regulation and licensing department for the use of any compressed gas extraction equipment to be utilized by the manufacturer;

(9) if applicable, a sample of the record form(s), which shall identify (among other items) the name of the wholesale purchaser, the date of the sale, the quantity, and price of cannabis sold;

(10) for class II, III, and IV licenses, documentation that the applicant has obtain all necessary authority required for the production of edibles and topicals from the New Mexico environment department and that such authority is valid at the time the license application is submitted;

(11) certification the applicant will adhere to manufacturing requirements pursuant to the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules;

(12) certification the applicant will adhere to cannabis transport requirements pursuant to the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules;

(13) certification the applicant will adhere to security requirements pursuant to the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules;

(14) certification the applicant will adhere to quality assurance requirements pursuant to the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules;

(15) certification the applicant will adhere to applicable federal, state and local laws governing the protection of public health and the environment, including occupational health and safety, food safety, fire safety, environmental impacts, natural resource protections, air quality, solid and hazardous waste management, and wastewater discharge;

(16) certification the applicant has never been denied a license or had a license suspended or revoked by the division or any other state cannabis licensing authority or a detailed description of any administrative orders, civil judgements, denial or suspension of a cannabis license, revocation of a cannabis license, or sanctions for unlicensed cannabis activity by any state licensing authority, against the applicant, controlling person, or a business entity in which the applicant or controlling person was a controlling person within the three years immediately preceding the date of the application;

(17) certification the applicant is not licensed under the Liquor Control Act.

(18) applicant's social and economic equity plan to encourage economic and social diversity in employment, including race, ethnicity, gender, age, and residential status of licensee, controlling persons and employees of applicant and whether the applicant, controlling persons, employees or the locations where the cannabis products are produced are located in an underserved rural community, including tribal, acequia, land grant-merced, federally designated opportunity zone, or other rural historic communities;

(19) an attestation that the manufacturer will not use dimethylsulfoxide (DMSO) in the production of cannabis products, and will not possess DMSO on the premises of the manufacturer;

(20) certification the applicant has obtained a current local jurisdiction business license, or will prior to operation of the cannabis establishment, and the applicant shall adhere to local zoning ordinance;

(21) an attestation of the following statement: Under penalty of perjury, I hereby declare that the information contained within and submitted with the application is complete, true and accurate. I understand that a misrepresentation of fact or violation of these rules may result in denial of the license application or revocation of a license issued; and

(22) payment of any required fees as set forth in 16.8.11 NMAC.

B. Verification of information: The division may verify information contained in each application and accompanying documentation by:

(1) contacting the applicant or controlling person by telephone, mail, or electronic mail;

(2) conducting an on-site visit;

(3) requiring a face-to-face or virtual meeting and the production of additional documentation; or

(4) consulting with state or local governments.

C. Trade secrets: Any applicant submitting operating procedures and protocols to the division pursuant to the Lynn and Erin Compassionate Use Act, the Cannabis Regulation Act, or division rules, may claim such information as a trade secret or confidential by clearly identifying such information as “confidential” on the document at the time of submission. Any claim of confidentiality by an applicant must be based on the applicant’s good faith belief that the information marked as confidential constitutes a trade secret as defined in the Uniform Trade Secrets Act, Sections 57-3A-1 to 7, NMSA 1978. In the event the division receives a request to inspect such documents, the division will notify the applicant or licensee, via the current email of record. If the division does not receive an injunction pursuant to the Uniform Trade Secrets Act within ten days of the request to inspect, the division will make the documents marked confidential available for inspection as required pursuant to the Inspection of Public Records Act.

[16.8.2.30 NMAC – N/E, 09/08/2021; A/E, 12/02/2021; N, 12/28/2021]

16.8.2.31 SUBMITTAL OF APPLICATION FOR AMENDED CANNABIS MANUFACTURER LICENSE:

A. Application: A licensed manufacturer shall submit to the division an application form for an amended license, if applicable, pay the required fee, and obtain approval from the division, prior to implementing any of the following:

(1) material or substantial change of the size or location of the premises;

(2) change of licensee’s legal or business name;

(3) change or modification in extraction type(s) or equipment;

(4) material or substantial change in water source;

(5) addition of a controlling person;

(6) material or substantial change to a licensee’s security system;

(7) material or substantial modification of the premises; or

(8) engaging in an activity which requires an addition or change of a license type.

B. Amended license not required: Changes to standard operating policies and procedures may be made without providing notification to the division, provided that licensees shall maintain at each licensed premises a copy of all current and prior operating policies and procedures.

C. Requirements and processing of application for amended license: The application for amended license must comply with all requirements applicable to initial applications, except that the application shall be clearly designated as one for an amended license. The division shall prorate required fees to align with the expiration date of the licensee’s original license, which shall be the expiration date of the licensee’s amended license, if approved. The division shall approve or deny an application for amended license within 90 days of receiving a completed application. Denial of an application for amendment shall be pursuant to the Uniform Licensing Act.

D. Material or substantial change: Material or substantial changes requiring approval include:

(1) increase or decrease in the size of the premises, including the sale of property used for the cannabis establishment, the purchase of additional property for the use of the cannabis establishment, or a change in the location of the cannabis establishment;

(2) a modification in the licensee’s access to the water source submitted with an application for initial or renewal licensure or a ten percent, or more, increase in the licensee’s water usage;

~~(3) change to a license's security system, including relocation or security points or installation of a new security system; or~~

~~(4) modification of the premises to relocate cannabis activities.]~~

A. Application: A licensed manufacturer shall submit to the division an application form for an amended license, if applicable, and obtain approval from the division, prior to implementing any of the following:

~~(1) material or substantial change of the size of the premises;~~

~~(2) change of licensee's legal or business name;~~

~~(3) change or modification in extraction type(s) or equipment;~~

~~(4) material or substantial change in water source;~~

~~(5) addition or elimination of a controlling person;~~

~~(6) material or substantial change to a license's security system; or~~

~~(7) material or substantial modification of the premises.~~

B. Amended license not required: Changes to standard operating policies and procedures may be made without providing notification to the division, provided that licensees shall maintain at each licensed premises a copy of all current and prior operating policies and procedures.

C. Requirements and processing of application for amended license: The application for amended license must comply with all requirements applicable to initial applications, except that the application shall be clearly designated as one for an amended license. The division shall approve or deny an application for amended license within 90 days of receiving a completed application. Denial of an application for amendment shall be pursuant to the Uniform Licensing Act.

D. Material or substantial change: Material or substantial changes requiring approval include:

~~(1) increase or decrease in the size of the premises;~~

~~(2) a modification in the licensee's access to the water source submitted with an application for initial or renewal licensure or a 10 percent, or more, increase in the licensee's water usage;~~

~~(3) change to a license's security system, including relocation or security points or installation of a new security system; or~~

~~(4) modification of the premises to relocate cannabis activities.~~

[16.8.2.31 NMAC – N/E, 09/08/2021; N, 12/28/2021]

16.8.2.32 PREMISES DIAGRAM:

A. ~~An applicant must submit to the division, with the application, a complete and detailed diagram of the proposed premises. The diagram shall be used by the division to determine whether the premises meets the requirements of the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, and division rules. The division shall deny an application if the premises does not qualify for licensure pursuant to federal, state or local laws.~~

B. ~~The diagram shall show the boundaries of the property and the proposed premises to be licensed, the dimensions of each area that cannabis will be manufactured. The diagram shall also include, as applicable, any equipment to be used, entrances and exits, interior partitions, walls, rooms, windows, and doorways. The diagram shall include a brief statement or description of the principal activity to be conducted in each area on the premises.~~

C. ~~The diagram shall show where all cameras are located and assign a number to each camera for identification purposes.~~

D. ~~The diagram shall be to scale.~~

E. ~~The diagram shall not contain any highlighting and the markings on the diagram shall be in black-and-white print.~~

F. ~~If the proposed premises consists of only a portion of a property, the diagram must be labeled indicating which part of the property is the proposed premises and what the remaining property is used for.~~

G. ~~If the proposed premises consists of only a portion of a property that will contain two or more licensed premises, then the diagram shall be supplemented with a description of how two or more licensed premises will be managed on the property.~~

H. ~~If a proposed premise is located on only a portion of a property that also includes a residence, the diagram shall clearly show the designated buildings for the premises and the residence.]~~

A. An applicant must submit to the division, with the application, a complete and detailed diagram of the proposed premises. The diagram shall be used by the division to determine whether the premises

meets the requirements of the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, and division rules. The division shall deny an application if the premises does not qualify for licensure pursuant to federal, state or local laws.

B. The diagram shall show the boundaries of the property and the proposed premises to be licensed, the dimensions of each area that cannabis will be manufactured, and the location of the extraction area. The diagram shall also include, as applicable, any equipment to be used, entrances and exits, interior partitions, walls, rooms, windows, and doorways. The diagram shall include a brief statement or description of the principal activity to be conducted in each area on the premises.

C. The diagram shall show where all cameras are located and assign a number to each camera for identification purposes.

D. The diagram shall be to scale.

E. The diagram shall not contain any highlighting and the markings on the diagram shall be in black-and-white print.

F. If the proposed premises consists of only a portion of a property, the diagram must be labeled indicating which part of the property is the proposed premises and what the remaining property is used for.

G. If the proposed premises consists of only a portion of a property that will contain two or more licensed premises, then the diagram shall be supplemented with a description of how two or more licensed premises will be managed on the property.

H. If a proposed premise is located on only a portion of a property that also includes a residence, the diagram shall clearly show the designated buildings for the premises and the residence.
[16.8.2.32 NMAC – N/E, 09/08/2021; N, 12/28/2021]

16.8.2.33 CANNABIS MANUFACTURER POLICIES AND PROCEDURES:

A. ~~Minimum policy and procedure requirements:~~ A manufacturer shall develop, implement, and maintain on the licensed premises, standard policies and procedures, which shall include the following:

~~(1) cannabis testing criteria and procedures, which shall be consistent with the testing requirements of the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules, and shall include at a minimum, the following topics:~~

~~(a) representative sampling and analytical testing of cannabis or cannabis products for contaminants prior to wholesale or transfer to another cannabis establishment;~~

~~(b) recordkeeping and chain of custody protocols for transportation of cannabis or cannabis product samples to a cannabis testing laboratory;~~

~~(c) recordkeeping and chain of custody protocols for transportation of cannabis or cannabis products to another cannabis establishment for any purpose;~~

~~(d) protocols to ensure that cannabis or cannabis products, including any samples of cannabis or cannabis products, are transported and stored in a manner that prevents degradation, contamination, tampering, or diversion;~~

~~(e) protocols for testing sample collection that ensures accurate test results; and~~

~~(f) procedures for destruction of a tested batch of cannabis or cannabis products if the testing samples from the tested batch indicate noncompliance with applicable health and safety standards;~~

~~(2) employee policies and procedures to address the following minimum requirements:~~

~~(a) adherence to state and federal laws;~~

~~(b) responding to an emergency, including robbery or a serious accident or incident;~~

~~(c) alcohol and drug-free workplace policies and procedures;~~

~~(d) safety and security procedures;~~

~~(e) occupational health and safety;~~

~~(f) crime prevention techniques; and~~

~~(g) if applicable, confidentiality laws, including the Health Insurance Portability and Accountability Act of 1996; and~~

~~_____~~ (3) ~~_____~~ documentation prepared for each employee and statements signed by employees indicating receipt and understanding of policies and procedures:

~~_____~~ **B. Training program:**

~~_____~~ (1) ~~_____~~ Licensee shall implement a training program, approved by the division, to ensure that all personnel present at the premises are provided information and training that, at minimum, covers the following topics within 30 days of the start of employment:

- ~~_____~~ (a) ~~_____~~ employee health and safety training materials;
- ~~_____~~ (b) ~~_____~~ health and safety hazards;
- ~~_____~~ (c) ~~_____~~ hazard communication training for all solvents or chemicals used at the licensed premises and as described in the safety data sheet for each solvent or chemical;
- ~~_____~~ (d) ~~_____~~ training requirements for the proper use of health and safety measures and controls;
- ~~_____~~ (e) ~~_____~~ emergency procedures;
- ~~_____~~ (f) ~~_____~~ security procedures; and
- ~~_____~~ (g) ~~_____~~ record keeping requirements.

~~_____~~ (2) ~~_____~~ Prior to independently engaging in any cannabis manufacturing process, including but not limited to extraction:

- ~~_____~~ (a) ~~_____~~ an overview of the process and standard operating procedure(s);
- ~~_____~~ (b) ~~_____~~ quality control procedures;
- ~~_____~~ (c) ~~_____~~ hazard analysis and control procedures as appropriate;
- ~~_____~~ (d) ~~_____~~ proper and safe usage of equipment or machinery;
- ~~_____~~ (e) ~~_____~~ safe work practices applicable to an employee's job tasks, including appropriate use of any necessary safety or sanitary equipment;
- ~~_____~~ (f) ~~_____~~ cleaning and maintenance requirements;
- ~~_____~~ (g) ~~_____~~ emergency operations, including shutdown; and
- ~~_____~~ (h) ~~_____~~ any additional information reasonably related to an employee's job duties.

~~_____~~ (3) ~~_____~~ A licensee, or employee, involved in the handling, transportation, manufacture, extraction, testing, or packaging of cannabis products must successfully complete a food handler course accredited by the American National Standards Institute (ANSI) prior to conducting any related activities. Such training shall be maintained while employed under a manufacturing licensee. The licensee shall obtain documentation evidencing the fulfillment of this requirement.

~~_____~~ **C. Training documentation:**

~~_____~~ (1) ~~_____~~ Licensee shall ensure that all personnel receive annual refresher training to cover, at minimum, the topics listed in this section. This annual refresher training must be completed within 12 months of the previous training completion date. The licensee shall maintain a record which contains at minimum:

- ~~_____~~ (a) ~~_____~~ an annual attestation by licensee that they received and understood all information and training provided in the training program;
- ~~_____~~ (b) ~~_____~~ a list of all personnel at the premises, including at minimum, name and job duties of each;
- ~~_____~~ (c) ~~_____~~ documentation of training topics and dates of training completion for all personnel;
- ~~_____~~ (d) ~~_____~~ training topics and dates of refresher training completion for all personnel;
- ~~_____~~ (e) ~~_____~~ the signature of the individual personnel and the licensee verifying receipt and understanding of each training or refresher training completed by the personnel;
- ~~_____~~ (f) ~~_____~~ any official documentation attesting to the successful completion of required training by personnel.

~~_____~~ (2) ~~_____~~ Licensee may designate supervisory personnel with responsibility to oversee the requirements of this section. Assigned supervisory personnel must have the education, training, or experience (or a combination thereof) necessary to ensure the production of clean and safe cannabis products by all personnel. The designated training personnel shall sign and date a document on

an annual basis attesting that they have received and understood all information and training provided in the training program. This documentation shall be maintained as part of the record requirements:

D. Retention of training documentation: Licensees shall maintain documentation of an employee's training for a period of five years for current employees and at least six months after the termination of an employee's employment.]

A. Minimum policy and procedure requirements: A manufacturer shall develop, implement, and maintain on the licensed premises, standard policies and procedures, which shall include the following:

(1) cannabis testing criteria and procedures, which shall be consistent with the testing requirements of the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules, and shall include at a minimum, the following topics:

(a) representative sampling and analytical testing of cannabis or cannabis products for contaminants prior to wholesale or transfer to another cannabis establishment;

(b) recordkeeping and chain of custody protocols for transportation of cannabis or cannabis product samples to a cannabis testing laboratory;

(c) recordkeeping and chain of custody protocols for transportation of cannabis or cannabis products to another cannabis establishment for any purpose;

(d) protocols to ensure that cannabis or cannabis products, including any samples of cannabis or cannabis products, are transported and stored in a manner that prevents degradation, contamination, tampering, or diversion;

(e) protocols for testing sample collection that ensures accurate test results; and

(f) procedures for destruction of a tested batch of cannabis or cannabis products if the testing samples from the tested batch indicate noncompliance with applicable health and safety standards;

(2) employee policies and procedures to address the following minimum requirements:

(a) adherence to state and federal laws;

(b) responding to an emergency, including robbery or a serious accident or incident;

(c) alcohol and drug-free workplace policies and procedures;

(d) safety and security procedures;

(e) occupational health and safety;

(f) crime prevention techniques; and

(g) if applicable, confidentiality laws, including the Health Insurance Portability and Accountability Act of 1996; and

(3) documentation prepared for each employee and statements signed by employees indicating receipt and understanding of policies and procedures.

B. Training program:

(1) Licensee shall implement a training program, approved by the division, to ensure that all personnel present at the premises are provided information and training that, at minimum, covers the following topics within 30 days of the start of employment:

(a) employee health and safety training materials;

(b) health and safety hazards;

(c) hazard communication training for all solvents or chemicals used at the licensed premises and as described in the safety data sheet for each solvent or chemical;

(d) training requirements for the proper use of health and safety measures and controls;

(e) emergency procedures;

(f) security procedures; and

(g) record keeping requirements.

(2) Prior to independently engaging in any cannabis manufacturing process, including but not limited to extraction:

(a) an overview of the process and standard operating procedure(s);

(b) quality control procedures;
(c) hazard analysis and control procedures as appropriate;
(d) proper and safe usage of equipment or machinery;
(e) safe work practices applicable to an employee's job tasks,
including appropriate use of any necessary safety or sanitary equipment;
(f) cleaning and maintenance requirements;
(g) emergency operations, including shutdown; and
(h) any additional information reasonably related to an employee's
job duties.

(3) A licensee, or employee, involved in the handling, transportation, manufacture, extraction, testing, or packaging of cannabis products must successfully complete a food handler course accredited by the American national standards institute (ANSI) prior to conducting any related activities. Such training shall be maintained while employed under a manufacturing licensee. The licensee shall obtain documentation evidencing the fulfillment of this requirement.

C. Training documentation:

(1) Licensee shall ensure that all personnel receive annual refresher training to cover, at minimum, the topics listed in this section. The licensee shall maintain a record, which contains at minimum:

(a) a list of all personnel at the premises, including at minimum,
name and job duties of each;
(b) documentation of training topics and dates of training completion
for all personnel;
(c) dates of refresher training completion for all personnel;
(d) the signature of verifying receipt and understanding of each
training or refresher training completed.

(2) Licensee may designate supervisory personnel with responsibility to oversee the requirements of this section.

D. Retention of training documentation: Licensees shall maintain documentation of an employee's training for a period of two years for current employees and at least six months after the termination of an employee's employment.

[16.8.2.33 NMAC – N/E, 09/08/2021; N, 12/28/2021]

16.8.2.34 MINIMUM STANDARDS FOR THE MANUFACTURE OF CANNABIS PRODUCTS:

[A. General requirements: Licensees shall ensure the following:

(1) manufacturing shall be done in premises that are in compliance with state and local laws that do not conflict with the Cannabis Regulation Act or the Lynn and Erin Compassionate Use Act;

(2) the licensee's right to use the quantity of water sufficient to meet the manufacturing facility's needs remains in good standing;

(3) weighting or measuring devices that are used in the wholesale of cannabis be appropriately documented as having undergone certified registration and calibration that is in accordance with applicable requirements of the New Mexico department of agriculture; and

(4) licensee shall notify the division of any changes to the days or hours of business operation;

B. Permissible Extractions:

(1) Except as provided in Subsection (2), cannabis extraction shall only be conducted using the following methods:

(a) Mechanical extraction, such as screens or presses;

(b) chemical extraction using a nonvolatile solvent such as a nonhydrocarbon-based or other solvent such as water, vegetable glycerin, vegetable oils, animal fats, or food-grade glycerin, (nonhydrocarbon-based solvents shall be food grade);

(c) chemical extraction using a professional closed loop CO2 gas extraction system;

~~(d) chemical extraction using a volatile solvent; or~~
 Licap applicant or licensee shall submit a detailed description of the extraction method, including any documentation that validates the method and any safety procedures to be utilized to mitigate any risk to public or worker health and safety.

~~(3) Extraction equipment shall be used and operated in accordance with its intended manufacturer use and design.~~

~~C. **Volatile Solvent Extractions:** Chemical extractions using volatile solvents shall be subject to the following requirements:~~

~~(1) hydrocarbon-based solvents shall be at least ninety-nine percent purity;~~

~~(2) ethyl alcohol must be food grade, and non-denatured in composition;~~

~~(3) all extractions shall be performed in a closed loop extraction system as described in subsection I of 16.8.2.34 NMAC; and~~

~~(4) Manufacturers shall not use ignition sources including but not limited to a heat gun or any open flame source next to extraction equipment that utilizes volatile solvents, including in rooms designated solely for extraction or in areas that contain or uses flammable liquids and gasses.~~

~~D. **Closed-Loop Extraction System Requirements:**~~

~~(1) Chemical extractions using CO2 or a volatile solvent shall be conducted in a professional closed loop extraction system. The system shall be commercially manufactured and bear a permanently affixed and visible serial number. The system shall be certified by a licensed engineer that the system was commercially manufactured, safe for its intended use, and built to codes of recognized and generally accepted good engineering practices, or listed, or approved by a nationally recognized testing laboratory.~~

~~(2) The certification document must contain the signature and stamp of a professional engineer and the serial number of the extraction unit being certified.~~

~~(3) Professional closed loop systems, other equipment used, the extraction operation, and facilities must be approved for use by the local fire code official and meet any required fire, safety, and building code requirements specified in:~~

~~(a) National Fire Protection Association (NFPA) standards;~~

~~(b) International Building Code (IBC);~~

~~(c) International Fire Code (IFC); or~~

~~(d) Other applicable standards including all applicable fire, safety, and building codes related to the processing, handling and storage of the applicable solvent or gas.]~~

~~A. **General requirements:** Licensees shall ensure the following:~~

~~(1) manufacturing shall be done in premises that are in compliance with state and local laws that do not conflict with the Cannabis Regulation Act or the Lynn and Erin Compassionate Use Act;~~

~~(2) the licensee's right to use the quantity of water sufficient to meet the manufacturing facility's needs remains in good standing;~~

~~(3) weighting or measuring devices that are used in the wholesale of cannabis be appropriately documented as having undergone certified registration and calibration that is in accordance with applicable requirements of the New Mexico department of agriculture; and~~

~~(4) licensee shall notify the division of any changes to the days or hours of business operation;~~

~~B. **Permissible Extractions:**~~

~~(1) Except as provided in Paragraph (2), cannabis extraction shall only be conducted using the following methods:~~

~~(a) Mechanical extraction, such as dry screens, sieves, or presses, potable water and ice made from potable water, cryogenic or subzero manufacturing not involving a solvent, or pressure and temperature;~~

~~(b) Chemical extraction using a nonvolatile solvent such as a nonhydrocarbon-based or other solvent such as water, vegetable glycerin, vegetable oils, animal fats, or food-grade glycerin, (nonhydrocarbon-based solvents shall be food grade);~~

~~(c) Chemical extraction using a division approved closed loop extraction system; or~~

(d) A-method authorized by the division pursuant to Paragraph (2) below.

(2) To request authorization from the division to conduct cannabis extraction using a method other than those specified in Subparagraphs (a) – (c) above, the applicant or licensee shall submit a detailed description of the extraction method, including any documentation that validates the method and any safety procedures to be utilized to mitigate any risk to public or worker health and safety.

(3) Extraction equipment shall be used and operated in accordance with its intended manufacturer use and design.

(4) Current safety data sheets shall be kept on the premises for all chemicals used in the extraction process.

C. Volatile Solvent Extractions: Chemical extractions using volatile solvents shall be subject to the following minimum requirements:

(1) hydrocarbon-based solvents shall be at least 99.5 percent purity with a certificate of analysis from the manufacturer to confirm purity;

(2) ethyl alcohol must be food grade, and non-denatured in composition;

(3) solvents shall be free of odorants, bitterants, or other additives and stored, handled, and disposed of in accordance with local, state, and federal regulations,

(4) all extractions shall be performed in a closed loop extraction system, unless approved by the division, as described in Subsection B of 16.8.2.34 NMAC; and

(5) licensees shall not use ignition sources including but not limited to a heat gun or any open flame source next to extraction equipment that utilizes volatile solvents, including in rooms designated solely for extraction or in areas that contain or uses flammable liquids and gasses.

D. Closed-Loop Extraction System Requirements:

(1) Closed loop systems, other equipment used, the extraction operation, and facilities must be approved for use by the local fire code official and meet any required fire, safety, and building code requirements specified in:

(a) National Fire Protection Association (NFPA) standards;

(b) International Building Code (IBC);

(c) International Fire Code (IFC); or

(d) Other applicable standards including all applicable fire, safety, and building codes related to the processing, handling and storage of the applicable solvent or gas.

(2) All pressure vessels must comply with the Construction Industries Licensing Act, Section 60-13-1 et seq., NMSA 1978, including associated rules, applicable codes, and standards.

(3) A list of the name(s) of all trained employees must be prominently displayed inside or immediately outside of the extraction area.

(4) A licensee that is currently approved to use CO2 or a volatile solvent for extraction has 6 months from the effective date of this rule to comply with the applicable requirements. Nothing in this subsection is intended to relieve a licensee of its obligation to comply with any applicable federal, state, or local laws and regulations.

[16.8.2.34 NMAC – N/E, 09/08/2021; N, 12/28/2021]

16.8.2.35 [SEVERABILITY: If any part or application of this rule is held to be invalid, the remainder or its application to other situations or persons shall not be affected. Any section of this rule legally severed shall not interfere with the remaining protections and duties provided by this rule.]

CANNABIS RETAIL LICENSURE; GENERAL PROVISIONS:

A. Division application forms: All applications for licensure authorized pursuant to the Cannabis Regulation Act shall be made upon current forms prescribed by the division using the online application portal.

B. License required: Unless licensed pursuant to the Cannabis Regulation Act and division rules, a person shall not sell cannabis products to qualified patients, primary caregivers or reciprocal participants, or directly to consumers.

[16.8.2.35 NMAC - N, 12/28/2021]

16.8.2.36 APPLICATION REQUIREMENTS FOR CANNABIS RETAILER LICENSE:

- A.** An initial application or renewal for cannabis retailer licensure shall include the following:
- (1) Contact information for the applicant and the cannabis establishment, to include:
 - (a) applicant's full legal name;
 - (b) applicant's date of birth, if applicable;
 - (c) applicant's mailing address;
 - (d) applicant's contact telephone number;
 - (e) applicant's contact email address;
 - (f) applicant's business physical address and mailing address, if different;
 - (g) applicant's business legal name, including a DBA name if applicable;
 - (h) applicant's business web address, if applicable;
 - (i) applicant's business hours of operation;
 - (j) name and contact information for each controlling person;
 - (k) demographic data pursuant to the Cannabis Regulation Act; and
 - (l) license type sought;
 - (2) proof the applicant or each controlling person is at least 21 years of age, which shall include identification issued by a federal or state government that includes the name, date of birth, and picture of the applicant or controlling person;
 - (3) legible and accurate diagram and description of the location of the land or facility to be used for the cannabis establishment, including a description of each retail area and all security requirements, in a portable document format (.pdf), and if requested by the division, digital photographic photos;
 - (4) if applicable, certification the applicant is in good standing with the New Mexico secretary of state, including all documents filed with the New Mexico secretary of state;
 - (5) a list of all controlling persons, a list of other current or prior licensed cannabis businesses, documentation of the applicant's or a controlling person legal name change, and criminal history screening documents as set forth in 16.8.2.9 NMAC and the Cannabis Regulation Act;
 - (6) a detailed description of any criminal convictions of the applicant and any controlling person, including the date of each conviction, dates of incarceration, probation or parole, if applicable, description of the offense, and statement of rehabilitation of each conviction;
 - (7) certification the applicant will adhere to retail requirements pursuant to the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules;
 - (8) certification the applicant will adhere to cannabis transport requirements pursuant to the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules;
 - (9) certification the applicant will adhere to security requirements pursuant to the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules;
 - (10) certification the applicant will adhere to quality assurance requirements pursuant to the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules;
 - (11) certification the applicant will adhere to applicable federal, state and local laws governing the protection of public health and the environment, including occupational health and safety, food safety, environmental impacts, natural resource protections, air quality, solid and hazardous waste management, and wastewater discharge;
 - (12) certification the applicant has never been denied a license or had a license suspended or revoked by the division or any other state cannabis licensing authority or a detailed description of any administrative orders, civil judgements, denial or suspension of a cannabis license, revocation of a cannabis license, or sanctions for unlicensed cannabis activity by any state licensing authority, against the applicant, controlling person, or a business entity in which the applicant or controlling person was a controlling person within the three years immediately preceding the date of the application;
 - (13) certification the applicant is not licensed under the Liquor Control Act;
 - (14) certification the applicant has obtained a current local jurisdiction business license, or will prior to operation of the cannabis establishment, and the applicant shall adhere to local zoning ordinance;
 - (15) if applicable, certification the applicant will adhere to courier requirements pursuant to the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules;
 - (16) applicant's social and economic equity plan to encourage economic and social diversity in employment, including race, ethnicity, gender, age, and residential status of licensee, controlling

persons and employees of applicant and whether the applicant, controlling persons, employees or the locations where the cannabis products are produced are located in an underserved rural community, including tribal, acequia, land grant-merced, federally designated opportunity zone, or other rural historic communities;

(17) an attestation of the following statement: Under penalty of perjury, I hereby declare that the information contained within and submitted with the application is complete, true and accurate. I understand that a misrepresentation of fact or violation of these rules may result in denial of the license application or revocation of a license issued; and

(18) payment of any required fees as set forth in 16.8.11 NMAC.

B. Verification of information: The division may verify information contained in each application and accompanying documentation by:

(1) contacting the applicant or controlling person by telephone, mail, or electronic mail;

(2) conducting an on-site visit;

(3) requiring a face-to-face or virtual meeting and the production of additional documentation; or

(4) consulting with state or local governments.

[16.8.2.36 NMAC – N, 12/28/2021]

16.8.2.37 SUBMITTAL OF APPLICATION FOR AMENDED CANNABIS RETAILER LICENSE:

A. Application: A licensed retailer shall submit to the division an application form for an amended license, if applicable, pay the required fee, and obtain approval from the division, prior to implementing any of the following:

(1) material or substantial change of the size;

(2) change of licensee's legal or business name;

(3) addition or elimination of a controlling person;

(4) material or substantial change to a license's security system; or

(5) material or substantial modification of the premises.

B. Amended license not required: Changes to standard operating policies and procedures may be made without providing notification to the division, provided that licensees shall maintain at each licensed premises a copy of all current operating policies and procedures.

C. Requirements and processing of application for amended license: The application for amended license must comply with all requirements applicable to initial applications, except that the application shall be clearly designated as one for an amended license. The division shall approve or deny an application for amended license within 90 days of receiving a completed application. Denial of an application for amendment shall be pursuant to the Uniform Licensing Act.

D. Material or substantial change: Material or substantial changes requiring approval include:

(1) increase or decrease in the size of the premises;

(2) change to a license's security system, including relocation or security points or installation of a new security system; or

(3) modification of the premises to relocate cannabis activities.

[16.8.2.37 NMAC – N, 12/28/2021]

16.8.2.38 PREMISES DIAGRAM:

A. An applicant must submit to the division, with the application, a complete and detailed diagram of the proposed premises. The diagram shall be used by the division to determine whether the premises meets the requirements of the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, and division rules. The division shall deny an application if the premises does not qualify for licensure pursuant to federal, state or local laws.

B. The diagram shall show the boundaries of the property and the proposed premises to be licensed, the dimensions of each area that cannabis will be stored and available to the public. The diagram shall also include, as applicable, any equipment to be used, entrances and exits, interior partitions, walls, rooms, windows, and doorways. The diagram shall include a brief statement or description of the principal activity to be conducted in each area on the premises.

C. The diagram shall show where all cameras are located and assign a number to each camera for identification purposes.

D. The diagram shall be to scale.

E. The diagram shall not contain any highlighting and the markings on the diagram shall be in black-and-white print.

F. If the proposed premises consists of only a portion of a property, the diagram must be labeled indicating which part of the property is the proposed premises and what the remaining property is used for.

G. If the proposed premises consists of only a portion of a property that will contain two or more licensed premises, then the diagram shall be supplemented with a description of how two or more licensed premises will be managed on the property.

H. If a proposed premise is located on only a portion of a property that also includes a residence, the diagram shall clearly show the designated buildings for the premises and the residence.
[16.8.2.38 NMAC – N, 12/28/2021]

16.8.2.39 CANNABIS RETAILER POLICIES AND PROCEDURES:

A. **Minimum policy and procedure requirements:** A licensed retailer shall develop, implement, and maintain on the licensed premises, standard policies and procedures, which shall include the following:

(1) cannabis handling criteria and procedures, which shall be consistent with the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules, and shall include at a minimum, the following topics:

(a) employee health and safety training materials;

(b) training requirements for the proper use of health and safety measures and controls;

(c) if applicable, recordkeeping and chain of custody protocols for transportation of cannabis or cannabis product samples to a cannabis testing laboratory;

(d) recordkeeping and chain of custody protocols for transportation of cannabis or cannabis products to another cannabis establishment for any purpose;

(e) protocols to ensure that cannabis or cannabis products, including any samples of cannabis or cannabis products, are transported and stored in a manner that prevents degradation, contamination, tampering, or diversion;

(g) if applicable, protocols for testing sample collection that ensures accurate test results; and

(h) if applicable, procedures for remedial measures to bring cannabis or cannabis products into compliance with division standards or destruction of a tested batch of cannabis or cannabis products if the testing samples from the tested batch indicate noncompliance with applicable health and safety standards;

(2) employee policies and procedures to address the following minimum requirements:

(a) adherence to state and federal laws;

(b) responding to an emergency, including robbery or a serious accident;

(c) alcohol and drug-free workplace policies and procedures;

(d) safety and security procedures;

(e) occupational safety;

(f) crime prevention techniques; and

(g) confidentiality laws, including the Health Insurance Portability and Accountability Act of 1996; and

(3) documentation prepared for each employee and statements signed by employees indicating receipt and understanding of policies and procedures.

B. Training program:

(1) Licensee shall implement a training program, approved by the division, to ensure that all personnel present at the premises are provided information and training that, at minimum, covers the following topics within 30 days of the start of employment:

_____ (a) health and safety hazards;
 _____ (b) security procedures; and
 _____ (c) record keeping requirements.
 _____ (2) Prior to engaging in any cannabis retail process:
 _____ (a) an overview of the process and standard operating procedure(s);
 _____ (b) safe work practices applicable to an employee's job tasks,
 including appropriate use of any necessary safety or sanitary equipment;
 _____ (c) cleaning and maintenance requirements;
 _____ (d) emergency operations, including shutdown; and
 _____ (e) any additional information reasonably related to an employee's
 job duties.

_____ (3) A licensee that retails edible cannabis products shall ensure that all personnel who handle edible products successfully complete a food handler course accredited by the American national standards institute (ANSI). The licensee shall obtain documentation evidencing the fulfillment of this requirement.

C. Training documentation:

_____ (1) Licensee shall ensure that all personnel receive annual refresher training to cover, at minimum, the topics listed in this section. The licensee shall maintain a record which contains at minimum:

_____ (a) a list of all personnel at the premises, including at minimum, name and job duties of each;
 _____ (b) documentation of training topics and dates of training completion for all personnel;
 _____ (c) dates of refresher training completion for all personnel; and
 _____ (d) the signature of each employee verifying receipt and understanding of each training or refresher training completed.

_____ (2) Licensee may assign responsibility for ensuring compliance by individual personnel with the requirements of this section to supervisory personnel.

D. Retention of training documentation: Licensees shall maintain documentation of an employee's training for a period of two years for current employees and at least six months after the termination of an employee's employment.

[16.8.2.39 NMAC - N 12/28/2021]

16.8.2.40 MINIMUM STANDARDS FOR RETAIL OF CANNABIS PRODUCTS:

A. Access to retailer premises prior to authorization of retail sale of commercial cannabis: Prior to the division authorizing the retail sale of commercial cannabis, pursuant to Subsection K of Section 26-2C-6 and Paragraph (5) of Subsection (B) of Section 26-2C-7 of the Cannabis Regulation Act, NMSA 1978, access to the licensed premises of a retailer shall be limited to individuals who are at least 18 years of age and possess a valid qualified patient, primary caregiver, or reciprocal participant registry identification card from the department of health medical cannabis program.

B. Access to retailer premises upon authorization of retail sale of commercial cannabis: Upon the division authorizing the retail sale of commercial cannabis, pursuant to Subsection K of Section 26-2C-6 and Paragraph (5) of Subsection B of Section 26-2C-7 of the Cannabis Regulation Act NMSA 1978, access to the licensed premises of a retailer shall be limited to the following:

_____ (1) individuals who are at least 21 years of age and possess a valid form of identification; and
 _____ (2) individuals who are at least 18 years of age and possess a valid qualified patient, primary caregiver, or reciprocal participant registry identification card from the department of health medical cannabis program.

C. Customer access to the retail area:

_____ (1) Individuals shall be granted access to purchase cannabis goods only after the licensed retailer or an employee of the licensed retailer has confirmed the individual's age and identity, and if applicable, the individual's status as a qualified patient, primary caregiver, or reciprocal participant.

(2) The licensed retailer or at least one employee shall be physically present in the retail area at all times when individuals who are not employees of the licensed retailer are in the retail area.

(3) All sales of cannabis goods, with the exception of cannabis goods sold through delivery, must take place within the retail area of the retailer's licensed premises.

(4) A licensed retailer shall sell and deliver cannabis goods only between the hours reported to the division as regular business hours.

D. Requirements While Not Open for Business:

(1) At any time the licensed premises is not open for retail sales, a licensed retailer shall ensure that:

(a) the licensed premises is securely locked with commercial-grade, nonresidential door locks;

(b) the licensed premises is equipped with an active alarm system pursuant to Section 10 of this rule, which shall be activated when the licensed retailer or its employees are not on the licensed premises; and

(c) only employees of the licensee and other authorized individuals are allowed access to the licensed premises. For the purposes of this section, authorized individuals include individuals employed by the licensee as well as any outside vendors, contractors, or other individuals conducting business that requires access to the licensed premises.

E. Commercial and medical retail customers:

(1) Commercial sales: A licensed retailer shall only sell cannabis and cannabis products to individuals who are at least 21 years of age after confirming the customer's age and identity by inspecting a valid form of identification provided by the customer as required by subsection B of this section.

(2) Medical sales: A licensed retailer shall only sell cannabis and cannabis products to individuals who are at least 18 years of age and possess a valid qualified patient, primary caregiver, or reciprocal participant registry identification card from the department of health medical cannabis program, after confirming the customer's age, identity, and valid registry identification.

(3) Acceptable forms of identification include the following

(a) a document issued by a federal, state, county, or municipal government, or a political subdivision or agency thereof, including, but not limited to, a valid motor vehicle operator's license, that contains the name, date of birth, and photo of the person;

(b) a valid identification card issued to a member of the Armed Forces that includes the person's name, date of birth, and photo of the person; or

(c) a valid passport issued by the United States or by a foreign government.

F. Cannabis product display:

(1) Cannabis and cannabis products for customer inspection and sale shall only be displayed in the retail area.

(2) Cannabis and cannabis products may be removed from their packaging and placed in containers to allow for customer inspection. The containers shall not be readily accessible to customers without assistance of retailer personnel. A container must be provided to the customer by the licensed retailer or its employees, who shall remain with the customer at all times that the container is being inspected by the customer.

(3) Cannabis and cannabis products removed from their packaging for display shall not be sold, shall not be consumed, and shall be destroyed, pursuant to Section 15 of this rule, when the cannabis or cannabis products are no longer used for display.

G. Cannabis and cannabis products for sale:

(1) A licensed retailer shall not make any cannabis or cannabis products available for sale or delivery to a customer unless:

(a) the cannabis or cannabis products were received by the retail licensee from a licensed producer, licensed producer microbusiness, licensed manufacturer, licensed vertically integrated cannabis establishment, or licensed integrated cannabis microbusiness;

(b) the licensed retailer has verified that the cannabis or cannabis products have not exceeded their expiration or sell-by date if one is provided;

(c) in the case of manufactured cannabis products, the cannabis product complies with all requirements of the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act and division rules;

(d) the cannabis or cannabis products have undergone laboratory testing as required by the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act and division rules;

(e) the packaging and labeling of the cannabis or cannabis product complies with Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act and division rules; and

(f) the cannabis or cannabis product complies with all applicable requirements found in the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act and division rules.

H. Commercial and medical cannabis purchase limits and excise tax:

(1) A licensed retailer shall not sell more than the following amounts at one time to a single commercial cannabis customer:

(a) two ounces of cannabis;

(b) 16 grams of cannabis extract;

(c) 800 milligrams of edible cannabis; and

(d) six immature cannabis plants.

(2) A licensed retailer shall adhere to department of health medical cannabis rules related to the sale of cannabis and cannabis products to qualified individuals who are at least 18 years of age and possess a valid qualified patient, primary caregiver, or reciprocal participant registry identification card from the department of health medical cannabis program.

(3) Pursuant to the Cannabis Tax Act, Section 7-42-2 NMSA 1978, cannabis excise tax shall not apply to retail sale of medical cannabis or cannabis products. Cannabis excise tax shall apply to commercial sales of cannabis and cannabis products.

(4) The limits provided in Paragraph (1) and Paragraph (2) of this subsection shall not be combined to allow a customer to purchase cannabis or cannabis products in excess of the limits provided in this section.

(5) The prohibition set forth in paragraph one above shall not prohibit the sale of different product types to a single customer, as long as the total amount sold does not exceed the limits set forth above.

I. Customer Return of Cannabis Goods:

(1) For the purposes of this subsection, “customer return” means a customer’s return of cannabis or cannabis products that were purchased from a licensed retailer, back to the licensed retailer the cannabis or cannabis products were purchased from.

(2) A licensed retailer may accept customer returns of cannabis or cannabis products that were previously sold to a customer.

(3) A licensed retailer shall not resell cannabis or cannabis products that have been returned.

(4) A licensed retailer shall treat any cannabis or cannabis products abandoned on the licensed retailer premises as a customer return.

(5) A licensed retailer shall destroy all cannabis or cannabis products that have been returned to the licensed retailer by a customer, pursuant to Section 15 of this rule.

J. Free cannabis or cannabis products:

(1) A licensed retailer shall not provide free cannabis or cannabis product(s) to any person. A licensed retailer shall not allow individuals who are employed or not employed by the licensed retailer to provide free cannabis or cannabis product(s) to any person on the licensed premises.

(2) Notwithstanding Paragraph (1) of this section, in order to provide access to medicinal cannabis patients who have difficulty accessing medicinal cannabis or cannabis product(s), a licensee may provide free cannabis or cannabis product(s) if all of the following criteria are met:

(a) free cannabis or cannabis products are provided only to a qualified patient, primary caregiver, or a reciprocal participant in possession of a valid registry identification card from the department of health medical cannabis program;

(b) the cannabis or cannabis products comply with all applicable requirements of the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act and division rules;

(c) the cannabis or cannabis products have been properly recorded in the track and trace system as belonging to the licensed retailer;

(d) the cannabis or cannabis products shall be applied toward the adequate supply for a medicinal cannabis customer pursuant to department of health rules;

(e) the transaction shall be properly recorded in the licensed retailer's inventory records and the track and trace system.

K. Inventory reconciliation:

(1) A licensed retailer shall perform a reconciliation of its inventory at least once every calendar month.

(2) In conducting an inventory reconciliation, a licensed retailer shall verify that the licensed retailer's physical inventory is consistent with the licensed retailer's records pertaining to inventory.

(3) The result of inventory reconciliation shall be retained in the licensed retailer's records and shall be made available to the division upon request.

(4) If a licensed retailer identifies any evidence of theft, diversion, or loss, the licensed retailer shall notify the division pursuant to Subsection N of 16.8.2.8 NMAC.

L. Record of Sales:

(1) A licensed retailer shall maintain an accurate record of every sale of cannabis and cannabis product made to a customer.

(2) A record of cannabis or cannabis product sold to a customer shall contain the following minimum information:

(a) the first name and employee number of the employee who processed the sale;

(b) the date and time of the transaction;

(c) a list of all the cannabis or cannabis product purchased, including the quantity purchased; and

(d) the total amount paid for the sale including the individual prices paid for each cannabis or cannabis product purchased and any amounts paid for cannabis excise tax.

(3) For the purposes of this section, an employee number is a distinct number assigned by a licensed retailer to their employees that would allow the licensed retailer to identify the employee on documents or records using the employee number rather than the employee's full name. A licensed retailer shall be able to identify the employee associated with each employee number upon request from the division.

(4) All licensed retailer-specific records shall be maintained for at least 12 months.

M. Retailer premises to retailer premises transfer:

(1) A licensee who has multiple licensed retail premises may arrange for the transfer or sale of cannabis or cannabis products from one licensed retail premises to another licensed retail premises if both licensed retail premises are held under the same ownership.

(2) A licensee may arrange for the transfer or sale of cannabis or cannabis products to another cannabis retailer if both licensees properly record the transaction in the licensed retailer's inventory records and the track and trace system

(3) Cannabis or cannabis product transferred to a licensed retail premises under this subsection may be sold by the licensed retailer receiving the cannabis or cannabis product only if the cannabis or cannabis products comply with all requirements pursuant to the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, and division rules.

N. Use of licensed cannabis couriers:

(1) A retail cannabis licensee may, consistent with this rule, and with the consent of a qualifying patient, primary caregiver, reciprocal participant, or an individual who is at least 21 years of age, utilize a license cannabis courier to deliver cannabis or cannabis products to a qualifying patient, primary caregiver, reciprocal participant, or an individual who is at least 21 years of age;

(2) A retail cannabis licensee shall require a consumer making a purchase for delivery by a cannabis courier licensee to have the valid government-issued identification card, the consumer intends to use to verify their age at the time of delivery, and if applicable, a medical cannabis program registry identification card, examined and authenticated by the retail cannabis licensee prior to the order; and

(3) Pre-verification of the consumer's identity shall be performed through a division approved electronic means, which may include a third-party technology platform, and shall include examination of a consumers valid, unexpired, medical cannabis identification card, if applicable, and photo identification issued by a federal or state government that includes the name, date of birth, and picture of the intended recipient.

[16.8.2.40 NMAC – N, 12/28/2021]

16.8.2.41 CANNABIS COURIER LICENSURE; GENERAL PROVISIONS:

A. Division application forms: All applications for licensure authorized pursuant to the Cannabis Regulation Act shall be made upon current forms prescribed by the division using the online application portal.

B. License required: Unless licensed pursuant to the Cannabis Regulation Act and division rules, a person shall not transport cannabis products directly to qualified patients, primary caregivers or reciprocal participants, or directly to consumers.

C. Consumer delivery:

(1) A licensee may deliver cannabis or cannabis products directly to a qualified patient who is at least 18 years of age, a primary caregiver or a reciprocal participant, or directly to a consumer who is at least 21 years of age.

(2) Licensees shall only deliver cannabis or cannabis products to the person who is identified by the retail cannabis licensee as an intended, authorized recipient.

D. Operational requirements:

(1) All cannabis and cannabis products delivered by a licensed cannabis courier shall be obtained from a retail cannabis licensee with which the cannabis courier is employed or has a delivery agreement.

(2) All delivery agreements between a retail cannabis licensee and a cannabis courier licensee shall be disclosed to the division. The division shall be notified in writing of a new delivery agreement or modification to a delivery agreement prior to delivery of cannabis or cannabis products under a new or modified delivery agreement.

(3) Licensees shall not transport or deliver cannabis or cannabis products that are not individually packaged, or that are not labeled in accordance with the Cannabis Regulation Act and division rules.

(4) Upon obtaining a package of cannabis or cannabis product from a retail cannabis licensee, the cannabis courier shall hold the package in a secure area or areas that are locked and otherwise resistant to tampering or theft, until the package is delivered to its intended recipient or returned to the retail cannabis licensee.

(5) Licensees shall not relinquish possession of cannabis or cannabis products unless and until the package of cannabis or cannabis products is either successfully delivered to its intended recipient or returned to the retail cannabis licensee. For purposes of this section, a package of cannabis or cannabis product is successfully delivered only upon the licensee's verification that an intended recipient has taken actual, physical possession of the package. Licensees shall not leave a package at any location for any reason, unless the package is successfully delivered to its intended recipient.

(6) At the time of delivery, a licensee shall verify the recipient's identity by requiring presentation of the recipient's photo identification issued by a federal or state government that includes the name, date of birth, and picture of the intended recipient. Identification must match

the pre-verified identification of the consumer who placed the order for delivery. Licensees shall not deliver cannabis or cannabis product to any person whose identity is not verified in accordance with this rule. Upon delivery to the intended recipient, the licensee shall certify having verified the recipient's identification in accordance with this rule for each transaction. Licensee shall view proof of the order generated at the time of the order and receive the signature of the consumer who ordered the cannabis or cannabis product.

(7) Licensees shall not possess a delivery package of cannabis or cannabis product for a time period greater than 24 hours. Licensees shall return any cannabis or cannabis product that is not successfully delivered to its intended recipient to the originating retail cannabis licensee within this time-period.

(8) Licensees shall not, when transporting cannabis or cannabis products utilize a delivery vehicle that advertises or otherwise displays signage, logos, or symbols that would indicate that the vehicle is used for the transport of cannabis.

(9) Only cannabis and cannabis product that is shelf-stable may be delivered. Products that are perishable or time and temperature controlled to prevent deterioration may not be delivered.

E. Confidentiality: Licensees shall at all times take measures to ensure confidentiality and safety in the transport and delivery of cannabis and cannabis product. A licensee may obtain contact information of a purchasing qualified patient or primary caregiver, and a reciprocal participant, as permitted by agreement between the licensee and a respective retail cannabis licensee, and may utilize such information solely for the purpose of arranging a delivery location and time with the qualified patient or primary caregiver, or reciprocal participant. Licensees shall not otherwise disseminate, disclose, or use identifying information or contact information concerning a qualified patient or primary caregiver, or reciprocal participant.

F. Maximum retail value: The maximum retail value of cannabis and cannabis product allowed in a cannabis courier's vehicle at any one time shall be \$10,000 and each product shall be associated with a specific order for delivery. For purposes of this provision, "maximum retail value" shall mean the aggregate value of cannabis and cannabis product as priced on the day of the order for delivery.

G. Track and trace: All cannabis and cannabis product deliveries shall be tracked using the track and trace system as designated by the division. Records of sales of cannabis accessories shall be maintained by the cannabis courier, but may not be tracked in the track and trace system designated by the division.

H. Record retention: Delivery records, including certification of delivery, the cannabis and cannabis product delivered, the date of delivery, and the time of delivery, shall be maintained by the cannabis courier for a minimum of 12 months.

I. Delivery time and location:

(1) Limitations on the time of delivery shall comply with all local laws.

(2) Licensees shall only deliver packages of cannabis or cannabis products to the address provided by the retail cannabis licensee.

(3) Licensees are prohibited from delivery to an individual consumer of more than two ounces of cannabis, 16 grams or cannabis extract and 800 milligrams of edible cannabis.

[16.8.2.41 NMAC – N, 12/28/2021]

16.8.2.42 APPLICATION REQUIREMENTS FOR CANNABIS COURIER LICENSE:

A. An initial application or renewal for cannabis courier licensure shall include the following:

(1) Contact information for the applicant, to include:

(a) applicant's full legal name;

(b) applicant's date of birth, if applicable;

(c) applicant's mailing address;

(d) applicant's contact telephone number;

(e) applicant's contact email address;

(f) physical address and mailing address, if different; and

(g) demographic data pursuant to the Cannabis Regulation Act;

(2) proof the applicant is at least 21 years of age, which shall include identification issued by a federal or state government that includes the name, date of birth, and picture of the applicant or controlling person;

- (3) criminal history screening documents as set forth in 16.8.2.9 NMAC and the Cannabis Regulation Act;
- (4) a detailed description of any criminal convictions of the applicant, including the date of each conviction, dates of incarceration, probation or parole, if applicable, description of the offense, and statement of rehabilitation of each conviction;
- (5) certification the applicant will adhere to courier requirements pursuant to the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules;
- (6) certification the applicant will adhere to cannabis transport requirements pursuant to the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules;
- (7) certification the applicant will adhere to security requirements pursuant to the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules;
- (8) certification the applicant will adhere to quality assurance requirements pursuant to the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules;
- (9) certification the applicant has never been denied a license or had a license suspended or revoked by the division or any other state cannabis licensing authority or a detailed description of any administrative orders, civil judgements, denial or suspension of a cannabis license, revocation of a cannabis license, or sanctions for unlicensed cannabis activity by any state licensing authority, against the applicant, controlling person, or a business entity in which the applicant or controlling person was a controlling person within the three years immediately preceding the date of the application;
- (10) certification the applicant is not licensed under the Liquor Control Act;
- (11) an attestation of the following statement: Under penalty of perjury, I hereby declare that the information contained within and submitted with the application is complete, true and accurate. I understand that a misrepresentation of fact or violation of these rules may result in denial of the license application or revocation of a license issued; and
- (12) payment of any required fees as set forth in 16.8.11 NMAC.
- B. Verification of information:** The division may verify information contained in each application and accompanying documentation by:
- (1) contacting the applicant by telephone, mail, or electronic mail;
- (2) requiring a face-to-face or virtual meeting and the production of additional documentation; or
- (3) consulting with state or local governments.
- [16.8.2.42 NMAC – N, 12/28/2021]

16.8.2.43 SEVERABILITY: If any part or application of this rule is held to be invalid, the remainder or its application to other situations or persons shall not be affected. Any section of this rule legally severed shall not interfere with the remaining protections and duties provided by this rule.

[16.8.2.43 NMAC – Rp, 16.8.35 NMAC, 12/28/2021]

History of 16.8.2 NMAC: [RESERVED]

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 8 COMMERCIAL AND MEDICAL CANNABIS
PART 2 LICENSING AND OPERATIONAL REQUIREMENTS FOR CANNABIS
ESTABLISHMENTS

16.8.2.1 ISSUING AGENCY: New Mexico Regulation and Licensing Department, Cannabis Control Division.
[16.8.2.1 NMAC - N, 08/24/2021]

16.8.2.2 SCOPE: This rule applies to all licensees and applicant for licensure pursuant to the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules.
[16.8.2.2 NMAC - N, 08/24/2021]

16.8.2.3 STATUTORY AUTHORITY: The requirements set forth herein are promulgated by the cannabis control division pursuant to the authority granted under the Cannabis Regulation Act and the licensing provisions of the Lynn and Erin Compassionate Use Act.
[16.8.2.3 NMAC - N, 08/24/2021]

16.8.2.4 DURATION: Permanent.
[16.8.2.4 NMAC - N, 08/24/2021]

16.8.2.5 EFFECTIVE DATE: August 24, 2021, unless a later date is cited at the end of a section.
[16.8.2.5 NMAC - N, 08/24/2021]

16.8.2.6 OBJECTIVE: The objective of Part 2 is to ensure the safe production, testing, sale, and consumption of commercial and medical cannabis. Part 2 is not applicable to personal use of cannabis pursuant to the Cannabis Regulation Act or the Lynn and Erin Compassionate Use Act.
[16.8.2.6 NMAC - N, 08/24/2021]

16.8.2.7 DEFINITIONS: Unless otherwise defined below, terms used in Title 16, Chapter 8, Part 1, have the same meanings as set for in 16.8.1 NMAC, the Cannabis Regulation Act, and the Lynn and Erin Compassionate Use Act.
[16.8.2.7 NMAC - N, 08/24/2021]

16.8.2.8 GENERAL OPERATIONAL REQUIREMENTS FOR CANNABIS ESTABLISHMENTS:

A. State and local laws: Pursuant to the Cannabis Regulation Act, applicants and licensees shall comply with all applicable state and local laws that do not conflict with the Cannabis Regulation Act or the Lynn and Erin Compassionate Use Act, including laws governing food and product safety, occupational health and safety, environmental impacts, natural resource protection, construction and building codes, operation of a cannabis establishment, employment, zoning, building and fire codes, water use and quality, water supply, hazardous materials, pesticide use, wastewater discharge, and business or professional licensing.

B. Licensure on federally recognized Indian Nation, Tribe or Pueblo: The division shall not approve an application for licensure to operate within the exterior boundaries of a federally recognized Indian nation, tribe or pueblo located wholly or partially in the state, unless the tribal government and the department have entered an intergovernmental agreement to coordinate the cross-jurisdictional administration of the laws of New Mexico and the laws of a tribal government relating to the Cannabis Regulation Act or the Lynn and Erin Compassionate Use Act.

C. Age requirements: All applicants for licensure, including controlling persons of applicants, must be at least twenty-one years of age. All employees of a commercial cannabis establishment must be at least twenty-one years of age.

D. Consumption prohibited: Licensees shall prohibit the consumption of cannabis or cannabis products on or within the licensed premises unless a cannabis consumption area has been approved by the division.

E. Illegal sale or distribution: Licensees shall not knowingly and intentionally sell, deliver, or

transport cannabis or cannabis products to any person that is not authorized to possess and receive the cannabis or cannabis products pursuant to state law or division rules.

F. Sales of alcoholic beverages prohibited: Licensees are allowed to conduct other licensed activities, including activities pursuant to the Hemp Manufacturing Act, Section 76-24-3 *et seq.*, NMSA 1978, except for sales of alcoholic beverages.

G. No guarantee of licensure: An applicant may not exercise any of the privileges of licensure until the division approves the license application and issues a license. The submission of an application is in no way a guarantee that the application will be accepted as complete. A license shall be granted or denied within 90 days upon acceptance of a completed application. Information provided by the applicant and used by the division for the licensing process shall be accurate and truthful. The division may initiate action to deny licensure, or other administrative action against an applicant or licensee, pursuant to the Uniform Licensing Act.

I. Computation of time: The word “days” as used in this rule means calendar days unless otherwise noted.

J. Display of license: A division license shall be displayed in a conspicuous place on the licensed premises and must be made available upon request by state and local agencies. If the licensed premises is open to the public, the license shall be displayed in an area that is within plain sight of the public.

K. Inventory and sales equipment: The division shall require licensees to utilize division approved track and trace equipment, software, and services.

L. Limitation of licensed premises: Licensees shall conduct cannabis establishment operations solely on licensed premises approved by the division.

M. Multiple licensee premises: Multiple licensees may occupy a single licensed premises, provided each is individually licensed by the division.

N. Reporting of theft or security incident to division: Licensees shall submit to the division written notification of any attempted theft, theft, assault of employees or patrons, robbery or attempted robbery, break-in, or security breach that occurs on the licensee’s premises, no later than 24 hours after the licensee first becomes aware of the event. The description shall include a description of any property that was stolen or destroyed, and the quantity of any cannabis plants, cannabis and cannabis products that were stolen. The licensee must provide a copy of the police report, video footage and any other supporting evidence requested by the division. The premises must be secured prior to continuing operations, including the replacement of locks, doors, windows, repair of damaged structures or access points with comparable or more secure replacement material.

O. Non-transferable or assignable license: A license shall not be transferred by assignment or otherwise to other persons or locations. Unless the licensee applies for and receives an amended license, the license shall be void and returned to the division when any one of the following situations occurs:

- (1) location of the licensed premises changes;
- (2) the discontinuance of operation at a licensed premises; or
- (3) suspension or revocation of the license by the division.

P. Online application: All applications for initial licensure, amended licensure, additional premises, and renewal must be completed using the online application portal available on the division website. Applicants shall first register for a user account.

Q. Complete application and fees required: Applicants must submit a completed application to the division before it will be accepted by the division as complete and considered for approval or denial. License and additional premises application or renewal fees must be paid at the time of application submission. Annual plant fees must be paid upon the division’s approval of the initial application or renewal application and approval of the number of cannabis plants that a licensee may produce.

R. Process for incomplete application: In the event that an application for licensure is determined by the division to be incomplete, the division shall notify the applicant by email and specify the information or materials that remain to be submitted. If the applicant does not submit the required information or materials within 90 days of receiving notice of the deficiency, the application shall be closed as incomplete and the applicant will be required to submit a new application in order to resume the application process. All licensing or renewal fees are non-refundable and must be paid for each new application.

S. Provisional license with contingencies: Upon written request of the applicant, the division may issue a provisional license letter with defined contingencies that the applicant must obtain documents that may be pending approval of a cannabis establishment license or must be obtained from other state agencies or local jurisdictions for the application to be considered complete. The provisional license letter shall list the remaining items necessary for the application to be complete and shall expire six-months from the date the provisional license letter was issued to the applicant. Upon written request of the applicant, the division may extend a provisional

license letter for an additional six-months. Final approval or denial of a license shall be stated on the provisional license letter as contingent on the applicant submitting all remaining items. Such a provisional license letter shall not authorize an applicant to begin licensed cannabis activity.

T. Request for clarifying information: Upon request of the division, an applicant shall provide additional information required to process and fully review the application. If the requested information is not received by the division within 90 days from the date the application was deemed to be complete, the division shall initiate action to deny licensure pursuant to the Uniform Licensing Act.

U. Physical and email address: Applicants and licensees must provide a physical mailing address and an email address. General correspondence from the division will be sent to the applicant or licensee's email address of record. Legal notice and determinations regarding an application, renewal or an administrative action, including an action taken by the division to deny, suspend, or revoke a license or impose a sanction and civil monetary penalty, shall be sent to the last mailing address and to the last email address furnished to the division. Licensees must inform the division in writing of any change to its physical mailing address or email address within 10 days of the change. If applicable, such changes may be submitted via the online licensing portal. An applicant or licensee's failure to notify the division of a change in physical or email address does not relieve the applicant or licensee from the obligation of responding to a division communication.

V. Electronic signature: The division will accept an electronic signature that complies with the Uniform Electronic Transactions Act, Section 14-16-1 *et seq.*, NMSA 1978, or the Revised Uniform Law on Notarial Acts, or rules promulgated pursuant thereto, on any documents required to be submitted to the division and that are submitted electronically.

W. Withdrawal of Application: An applicant may withdraw an application at any time prior to the division's issuance of a license or denial of a license. Requests to withdraw an application must be submitted to the division in writing, dated, and signed by the applicant. Withdrawal of an application shall not, unless the division has consented in writing to such withdrawal, deprive the division of its authority to institute or continue a proceeding against the applicant for the denial of the license upon any ground provided by law or to enter an order denying the license upon any such ground. The division shall not refund application fees for a withdrawn application. An applicant may reapply at any time following the withdrawal of an application and shall be required to submit a new application and fee.

X. Closure of a licensed cannabis establishment: A licensee that anticipates permanently ceasing its business operations shall notify the division no later than 30 days prior to closure. The licensee shall post public notice of the anticipated closure at all licensed premises that are accessible to the public at least 14 days prior to the closure. Any cannabis or cannabis products that are held by a licensee on behalf of the licensee ceasing its business operations shall be returned to the licensee ceasing business operations. Any cannabis or cannabis products that are held by the licensee ceasing its business operations on behalf of another licensee shall be returned to the originating licensee. Cannabis or cannabis products that are otherwise held by a licensee shall, prior to the licensee's closure, be surrendered to either state or local law enforcement, destroyed by the licensee in accordance with the wastage standards of this rule, or donated to patients via a licensed cannabis establishment, provided that the donation has been approved in writing by the division and that the licensee has submitted documentation of the donation to the division. State and local law enforcement are authorized to remove and destroy any cannabis or cannabis products that are held by a person who has ceased to be licensed by the division.

Y. Persons licensed pursuant to the medical cannabis program: In order to be entitled to continue operating as a cannabis establishment, a person properly licensed and in good standing pursuant to the Lynn and Erin Compassionate Use Act on June 29, 2021, must submit a completed renewal application for a cannabis establishment license, along with required fees, within 30 days of the effective date of this rule. In the event the person does not apply for such a license renewal within the required timeframe, the person shall cease all production operations immediately. Upon approval, the licensee shall operate pursuant to the Cannabis Regulation Act and rules adopted by the division pursuant thereto, provided that the licensee shall continue to operate pursuant to rules promulgated by the department of health for activities authorized by virtue of the licensee's medical program license to the extent they do not conflict with rules adopted by the division pursuant to the Cannabis Regulation Act.

Z. Application for variance:

(1) Any applicant or licensee may seek a variance from division rule(s) and shall do so by filing a written petition with the division. The petitioner may submit with the petition any relevant documents or material, which the petitioner believes would support the petition.

(2) Petitions shall:

(a) state the petitioner's name and address;

(b) state the date of the petition;

- (c) describe the facility or activity for which the variance is sought;
- (d) state the address or description of the premises upon which the cannabis establishment or activity is located;
- (e) identify the rule(s) from which the variance is sought;
- (f) state in detail the extent to which the petitioner wishes to vary from the rule(s) and how the petitioner will ensure public health and safety is not negatively impacted;
- (g) state why the petitioner believes that compliance with the regulation will impose an unreasonable regulatory burden upon the cannabis establishment or activity; and
- (h) state the period of time for which the variance is desired, including all reasons, data, reports and any other information demonstrating that such time period is justified and reasonable.

(3) At the discretion of the division, the adjudicatory procedures of the Uniform Licensing Act may be used for guidance and shall not be construed to limit, extend, or otherwise modify the authority and jurisdiction of the division.

(4) Prior to a final decision, the division will hold a public hearing pursuant to the Open Meetings Act, Section 10-15-1 *et seq.*, NMSA 1978. The purpose of the hearing is to provide interested persons a reasonable opportunity to submit data, views or arguments orally or in writing on the proposed variance. The division, at its sole discretion, may determine whether to hold more than one hearing. The division may act as the hearing officer or designate an individual hearing officer to preside over the hearing. The hearing officer may ask questions and provide comments for clarification purposes. The hearing officer shall identify and mark all written comments submitted during the hearing. The public comments should be labeled as exhibits for reference, but do not require formal admission into the hearing record. Individuals wishing to provide public comment or submit information at the hearing must state their name and any relevant affiliation for the record and be recognized before presenting. Public comment shall not be taken under oath. Any individual who provides public comment at the hearing may be questioned by the hearing officer. The hearing shall be conducted in a fair and equitable manner. The hearing officer may determine the format in which the hearing is conducted, but the hearing should be conducted in a simple and organized manner that facilitates public comment. The rules of evidence shall not apply and the hearing officer may, in the interest of efficiency, exclude or limit comment or questions deemed irrelevant, redundant, or unduly repetitious.

(5) The division may grant the requested variance, in whole or in part, subject to conditions, if the variance is not contrary to the Cannabis Regulation Act, or public interest, does not have a negative environmental impact, and is not detrimental to public health and safety, or the division may deny the variance. If the variance is granted in whole or in part, or subject to conditions, the division shall specify the length of time that the variance shall be in place. A permanent variance may be granted. If a permanent variance is not granted, a petitioner may reapply for a variance once the time period expires.

(6) The division shall set forth in the final order the reasons for its actions and shall not be subject to review.

AA. Application for additional licensed premises: Licensees must apply for the specific cannabis establishment license type intended for each additional licensed premises as defined in the Cannabis Regulation Act.

BB. Vertically integrated cannabis establishment and integrated cannabis establishment microbusiness:

(1) Applicants for a vertically integrated cannabis establishment or integrated cannabis establishment microbusiness must meet all qualifications for each type of cannabis establishment that is authorized pursuant to the Cannabis Regulation Act.

(2) An initial applicant for an integrated cannabis microbusiness or a vertically integrated cannabis establishment license, must submit an application for authorization to conduct one or more of the following:

- (a) production of cannabis;
- (b) manufacturing of cannabis products;
- (c) retail establishment; or
- (d) courier of cannabis products.

(3) Applicants or licensees shall request authority to add or remove a cannabis establishment activity by submitting an amended application, and any required additional fees.

(4) If a vertically integrated cannabis establishment applicant or licensee will not conduct all cannabis establishment activity on a single premises, each additional premises shall require an additional premises fee.

(5) An applicant or licensee shall not conduct any activity for which additional authority is required until it has received written approval from the division.
[16.8.2.8 NMAC - N, 08/24/2021]

16.8.2.9 CRIMINAL HISTORY SCREENING REQUIREMENTS:

A. Initial licensure: Applicants for initial licensure shall consent to and undergo a national criminal history background check and department of public safety (DPS) statewide criminal history screening background check no more than ninety days prior to submitting an application. For purposes of this rule, background checks shall be required for:

- (1) each partner of a limited partnership;
- (2) each member of a limited liability company;
- (3) each director, officer, or trustee of a corporation or trust; and
- (4) any controlling person of the applicant.

B. Authorized change: If there is a change in membership of any of the above listed person(s), an amended application and background check documentation shall be submitted, and each new member must be approved by the division prior to a person assuming any duties or responsibilities for a licensee.

C. Procedure for applicants:

- (1) an applicant shall submit a request to the federal bureau of investigation, the New Mexico department of public safety, or a designee vendor for a current criminal history report through the national crime information center (NCIC);
- (2) the division shall provide applicants the division's originating agency identification (ORI) number;
- (3) an applicant shall provide to the department of public safety, or its designated vendor, a criminal background screening request, fingerprints, and supporting documentation, including an authorization for release of information to the division in accordance with the procedures of the department of public safety or its designated vendor;
- (4) the department of public safety or its designated vendor will review state records and shall transmit the fingerprints to the federal bureau of investigation for a national screening; and
- (5) the results of the screening will be made available to the division for review.

D. Fees: All applicable fees associated with the national criminal history background check and New Mexico department of public safety statewide criminal history background checks shall be paid by the applicant or licensee.

E. Substantially related convictions: The division shall review felony convictions pursuant to the Cannabis Regulation Act and the Criminal Offender Employment Act. The following are considered substantially related to the qualifications, functions, or duties of an applicant or person:

- (1) a felony conviction involving fraud, deceit, or embezzlement;
- (2) a felony conviction for hiring, employing, or otherwise using a person younger than eighteen years of age to:
 - (a) prepare for sale, transport or carry a controlled substance; or
 - (b) sell, give away or offer to sell a controlled substance to any person; and
- (3) a felony offense for the possession, use, manufacture, distribution or dispensing or possession with the intent to manufacture, distribute or dispense a controlled substance. For purposes of this rule, a controlled substance shall not include cannabis.

F. Duty to report potentially disqualifying event: Applicants and licensees must notify the division in writing within seven days of any change of fact that would potentially result in the applicant or licensee, including any of the persons listed in subsection A of this section, being disqualified from holding a license pursuant to the Cannabis Regulation Act or division rules, including a conviction for any crime specified in this section. Failure to make required notification to the division may be grounds for administrative disciplinary action. If the division has determined that the person's conviction does not disqualify the licensee from licensure, the division shall notify the licensee in writing. The division may also initiate administrative disciplinary action pursuant to the Uniform Licensing Act.

[16.8.2.9 NMAC - N, 08/24/2021]

16.8.2.10 SECURITY AND LIMITED-ACCESS AREA: All phases where cannabis or cannabis products are cultivated, stored or held, weighed, packaged, manufactured, disposed or wasted, all point-of-sale areas, and any room or area storing a digital video surveillance system storage device shall take place in a designated limited-access area where cannabis and cannabis products are not visible from a public place without the use of binoculars,

aircraft, or other optical aids. For purposes of this rule, cannabis or cannabis products are not visible if it cannot be reasonably identified. Licensees shall comply with the security requirements set out in this rule to ensure that licensed premises and limited-access areas, including a vault, are secure.

A. Security alarm system: Licensees shall install and maintain at each premises an operational security alarm system. The security alarm system must be continuously monitored, whether electronically, by a monitoring company, or other means determined to be adequate by the division, and provide an alert to designated employees of the licensee and, if necessary, law enforcement within 5 minutes after a notification of an alarm or a security alarm system failure, either by telephone, email, or text message. Monitored sensors are required on all perimeter entry points and perimeter windows, if applicable. The system must include an audible alarm, which must be capable of being disarmed remotely by the designated employee or the security company. Licensees shall maintain, and make available to the division upon request, a description of the location and operation of the security system, including the location of the central control, a schematic of the security zones, and the name of the security alarm company and monitoring company, if applicable.

B. Security alarm system maintenance and failure: Licensees shall conduct a monthly maintenance inspection and make all necessary repairs to ensure the proper operation of the security alarm system. In the event of a security alarm system failure due to a loss of electrical power or mechanical malfunction that is expected to exceed an eight-hour period, the licensee shall immediately notify the division within 48 hours following the discovery of the failure, and provide alternative security that may include closure of the premises. All security system equipment shall be maintained in a secure location so as to prevent theft, loss, destruction and alterations.

C. Inspection of security alarm system records: Licensees shall maintain documentation for a period of at least 12 months of all maintenance inspections, servicing, alterations, and upgrades performed on the security alarm system. All documentation must be available during a division inspection.

D. Digital video surveillance: Licensees shall provide and maintain at each premises a digital video surveillance system with a minimum camera resolution of 1280 x 720 pixels. The digital video surveillance system shall further comply with the following requirements:

- (1) the digital video surveillance system shall at all times be able to effectively and clearly record images of the area under surveillance;
- (2) each camera shall be permanently mounted and in a fixed location;
- (3) cameras shall be placed in a location that allows the camera to clearly record activity occurring on the licensed premises that digital video surveillance is required under subsection E of this section, and shall provide a clear and certain identification of any person and activities in those areas.

E. Areas of digital video surveillance: Areas that shall be recorded on the digital video surveillance system include the following:

- (1) areas where cannabis and cannabis products are cultivated, produced, manufactured, weighed, packed, stored, loaded, and unloaded for transportation, prepared, or moved within the licensed premises;
- (2) limited-access areas;
- (3) areas storing a digital video surveillance-system storage device;
- (4) entrances and exits to the licensed premises; and
- (5) all point of sale (POS) locations to capture sale transactions.

F. Digital Video Surveillance Recording: Licensees shall comply with the following digital video surveillance recording requirements:

- (1) cameras shall record continuously 24 hours per day, or may be motion activated, and at a minimum of 15 frames per second (FPS);
 - (2) the physical media or storage device on which digital video surveillance recordings are stored shall be secured in a manner to protect the recording from tampering or theft;
 - (3) digital video surveillance recordings shall be kept for a minimum of 30 days and recordings of theft or security incidents as set forth in Subsection N of 16.8.2.8 NMAC shall be kept for a minimum of 12 months;
 - (4) digital video surveillance recordings are subject to inspection by the division, and shall be kept in a manner that allows the division to view and obtain copies of the recordings at the licensed premises immediately upon request;
 - (5) upon request, licensees shall send or otherwise provide copies of the recordings to the division within 48 hours;
 - (6) recorded images shall clearly and accurately display the time and date of the recording;
- and
- (7) time shall be measured in accordance with the United States national institute standards

and technology standards.

G. Failure notification: A digital video surveillance system shall be equipped with a failure notification system that provides notification to the licensee of any interruption or failure of the digital video surveillance system or digital video surveillance-system storage device. A digital video surveillance system failure shall be reported to the division immediately and operations shall cease as soon as safely possible until the system is again operational.

H. Multiple licensees premises: If multiple applicants or licensees seek to operate, or operate, within the same premises, a single security system and digital video surveillance system covering the entire premises may be used by all of the licensees under the following conditions:

(1) each applicant or licensee shall disclose on their premises diagram where the security alarm system and the digital video surveillance cameras are located and where digital video surveillance recordings are stored;

(2) each applicant or licensee shall include in their application a certification that all licensees shall be individually responsible for the operation, maintenance, and record keeping requirements of the security alarm system, and that all licensees shall have access to live monitoring of the digital video surveillance system;

(3) each applicant or licensee shall include in their application an explanation of how the security alarm system and digital video surveillance system will be shared with the division and authorities, as well as who is responsible for maintenance of the security alarm system and the digital video surveillance system, who is authorized to monitor the video footage and who is responsible for storing any digital video surveillance recordings;

(4) each applicant or licensee shall have immediate access to the digital video surveillance recordings to produce them pursuant to subsection F of this section; and

(5) each applicant or licensee shall be held responsible for any violations of the security system or digital video surveillance requirements.

I. Locks: Licensees shall ensure that limited-access areas can be securely locked using commercial-grade locks that meet applicable building and fire codes. Licensees shall also use commercial-grade locks that meet applicable building and fire codes on all points of entry and exit to the licensed premises and access points to areas where cannabis and cannabis products are stored.

J. Limited-access areas: A limited access area shall only be accessible to a licensee and its authorized employees, authorized vendors, contractors or other individuals conducting business that requires access to a limited-access area, division staff or authorized designees, state and local law enforcement authorities acting within their lawful jurisdictions, fire departments and emergency medical services acting in the course of their official capacity, or volunteers specifically permitted by the licensed cannabis establishment. Licensees shall ensure:

(1) only authorized employees of the licensee and other authorized individuals have access to the limited-access areas of the licensed premises;

(2) a daily record log, which may be a sign-in and sign-out sheet at the entrance of a premises, of all authorized employees and authorized individuals that are not employees of the licensee who enter the limited-access areas is maintained;

(3) limited-access record logs are kept for a minimum of 90 days, or 12 months if a theft or security incident occurs, and must be made available to the division within 48 hours upon request;

(4) entrances to all limited-access areas have a solid door, or if appropriate, a gate adequate to block access, and a lock meeting the requirements set forth in subsection I of this section, and unless prohibited by building or fire codes, the entrance shall remain locked when not in use during regular business hours;

(5) all limited-access areas are identified by the posting of a sign that shall be a minimum of 12" x 12" and which states: "Do Not Enter - Limited Access Area - Access Limited to Authorized Personnel Only" in lettering no smaller than one inch in height;

(6) authorized employees of the licensee visibly display an employee identification badge at all times while present within a limited-access area;

(7) other authorized individuals obtain a visitor identification badge prior to entering a limited-access area, the visitor identification badge shall be visibly displayed at all times while the visitor is in any limited access area, and all visitor identification badges shall be returned to the cannabis establishment on exit.

K. Licensee identification badge requirement: Licensees shall issue a laminated or plastic-coated identification badge to all agents, officers, or other persons acting for or employed by a licensee, which shall, at a minimum, include the licensee's "doing business as" name and license number, the individual's first name, an employee number exclusively assigned to that employee for identification purposes, and a color photograph of the

employee that clearly shows the full front of the employee's face and that is at least 1 inch in width and 1.5 inches in height.

L. Lighting: Any perimeter entry point of a cannabis establishment must have lighting sufficient for observers to see, and cameras to record, any activity within 20 feet of the gate or entry; and a motion detection lighting system may be employed to light required areas in low-light conditions.

M. Doors and windows: All external entrances to indoor facilities on the licensed premises must be able to be locked and all perimeter doors and windows of indoor facilities must be in good condition and lockable.

N. Fencing requirements for outdoor areas or greenhouses: Any licensed premises that is an outdoor area or greenhouse shall also implement security measures to ensure that the outdoor area or greenhouse is not assessable to unauthorized individuals and is secure to prevent and detect diversion, theft, or loss of cannabis, which shall at a minimum include:

(1) a perimeter security fence designed to prevent unauthorized entry to any cannabis cultivation areas and signs that shall be a minimum of 12" x 12" and which states: "Do Not Enter - Limited Access Area - Access Limited to Authorized Personnel Only" in lettering no smaller than one inch in height; and

(2) a cover that obscures cannabis cultivation areas from being readily viewed from outside of the fenced area.

O. Security guards: Security guards are permitted but not required. Contract security guards must be licensed under the Private Investigations Act, Section 61-27B-1 *et seq.*, NMSA 1978. Security guards must not consume cannabis or cannabis products or be intoxicated while performing any duties for a licensee. Security guards must comply with all laws related to firearms and other weapons.

P. Vault: Licensees may store all non-growing cannabis, cannabis products, or cash not being actively handled for purposes of cultivating, packaging, processing, transporting, or selling within an adequately sized vault.

[16.8.2.10 NMAC - N, 08/24/2021]

16.8.2.11 RECALL OF CANNABIS:

A. Written procedures: Licensees shall establish and implement written procedures for recalling cannabis and cannabis products that have been sold or otherwise distributed to the public or other cannabis establishments. Recall procedures shall be made available for the division's inspection upon request.

B. Recall procedures: The recall procedures shall identify:

- (1) the circumstances in which a recall will be conducted, including the circumstances involving the mislabeling or contamination of products;
- (2) personnel responsible for implementing the recall procedures;
- (3) procedures for notification of all customers who have, or reasonably could have, obtained an affected product, including communication and outreach via broadcast media, as appropriate;
- (4) procedures for notification of any other cannabis establishment that supplied or received the recalled product;
- (5) instructions to be provided to customers or other cannabis establishments for the return or destruction of the recalled product; and
- (6) procedures for the collection and wastage (as may be required by the division) of any recalled product.

C. Destruction of recalled product: All recalled products that are intended to be destroyed shall be wasted in accordance with the wastage requirements of the division.

D. Division notification: The licensee shall notify the division of any recall within 24 hours of initiating the recall.

E. Division recall order: The division may order the immediate recall of cannabis or cannabis products if it deems such action necessary to protect public health and safety.

[16.8.2.11 NMAC - N, 08/24/2021]

16.8.2.12 CHAIN OF CUSTODY:

A. Licensees shall adopt, maintain, and enforce chain of custody procedures and documentation requirements to ensure appropriate tracking and tracing of cannabis and cannabis products. Licensees shall use a paper-based or electronic chain of custody form that documents the possession of cannabis or cannabis products, and includes the following:

- (1) the originating location of the cannabis or cannabis products;
- (2) the time and date of transfer of the cannabis or cannabis products;

- (3) the size, number of boxes, and number of pieces of cannabis or cannabis products;
- (4) the internal batch or lot numbers, and if different, the track and trace batch or lot numbers;
- (5) a dated signature of the person receiving the cannabis or cannabis products; and
- (6) for cannabis samples, in addition to the above, the types of containers, mode of collection, the authorized individual who collected the sample, the date and time of collection, preservation, and requested analyses of the sample.

B. Licensees shall also adopt, maintain, and enforce security requirements to ensure security and the safety of cannabis and cannabis products and transport personnel.
[16.8.2.12 NMAC - N, 08/24/2021]

16.8.2.13 REQUIREMENTS FOR THE TRANSPORTATION OF CANNABIS:

A. General requirements: The following requirements apply when disposing of wasted cannabis or cannabis plants or transporting cannabis or cannabis products between licensees or licensed premises:

- (1) transportation of cannabis or cannabis products shall only be conducted by persons holding a cannabis establishment license under the Cannabis Regulation Act or designated employees, or contractors, of a licensee;
- (2) prior to transporting any cannabis or cannabis products to another licensee, the licensee shall have a completed transfer or sales invoice or receipt and a chain of custody form, the licensee shall only transport cannabis or cannabis products listed on the invoice or receipt and chain of custody form, and the invoice or receipt and chain of custody form may not be altered or changed once transport begins;
- (3) transportation of cannabis or cannabis products by means of a human powered vehicle or unmanned vehicle is prohibited;
- (4) cannabis or cannabis products shall only be transported inside of a motor vehicle or trailer in reasonable operating condition and shall not be visible or identifiable from outside of the vehicle or trailer;
- (5) cannabis or cannabis products shall be locked in a box, container, or cage that is secured within the inside of the vehicle or trailer, including when such a box, container, or cage is located inside of the trunk;
- (6) vehicles and trailers shall be locked and secured while left unattended;
- (7) licensees shall not leave a vehicle or trailer containing cannabis or cannabis products unattended in a residential area;
- (8) vehicles shall have a vehicle alarm system ;
- (9) packages or containers holding cannabis or cannabis products shall not be tampered with, or opened, during transport;
- (10) when engaged in the transportation of cannabis or cannabis products, a licensee shall only travel between licensees shipping or receiving cannabis or cannabis products and its own licensed premises;
- (11) licensees may transport multiple shipments of cannabis or cannabis products at one time in accordance with applicable laws;
- (12) licensees shall not deviate from the travel requirements described in this section, except for necessary rest, fuel, or vehicle repair stops;
- (13) under no circumstances may alcoholic beverages be transported with cannabis or cannabis products;
- (14) vehicles and trailers transporting cannabis or cannabis products are subject to inspection by the division at any licensed premises or during transport at any time;
- (15) notwithstanding subsection A of this section, cannabis or cannabis products may be transported by foot, hand truck, forklift, or other similar means if it is not operationally feasible to transport cannabis products inside of a vehicle or trailer because the licensed premises that the cannabis products will be transported from and the licensed premises that will be receiving the cannabis products are located within the same building or on the same premises;
- (16) storage and transportation of cannabis and cannabis products shall be under conditions that will maintain and protect the cannabis or cannabis products against physical, chemical, and microbial contamination as well as against deterioration of the cannabis or cannabis products and the container;
- (17) the vehicle must be properly registered with the New Mexico motor vehicle division; and
- (18) the driver of the vehicle must be prepared to show proper identification, including a licensee employee badge, driver's license, vehicle registration and proof of insurance, and the appropriate shipping manifest and chain of custody form to law enforcement and the division when requested.

B. Shipping manifest: Prior to transporting cannabis or cannabis products, a licensee shall generate a shipping manifest through the track and trace system for the following activities:

- (1) testing and sampling of cannabis or cannabis products;
- (2) sale of cannabis or cannabis products to a licensee;
- (3) destruction, wastage, or disposal of cannabis or cannabis products; and
- (4) any other activity, as required by the division or any other government authority.

C. Transmittal of manifest: Licensees shall transmit the shipping manifest to the division and (if applicable) the licensee that will receive the cannabis or cannabis products via the online track and trace portal prior to transporting the cannabis or cannabis products.

D. Verification of manifest: Licensees shall ensure and verify that the cannabis or cannabis products being taken into possession for transport at the originating licensed premises are described and accurately reflected in the shipping manifest. For purposes of this section, the licensee may verify that the cannabis or cannabis products are accurately reflected in the shipping manifest by confirming that the number of boxes of cannabis or cannabis products, type of cannabis or cannabis products, or the units of cannabis or cannabis products matches the label on the boxes containing the cannabis or cannabis products.

E. Rejection of shipment: Licensees shall not take into possession or transport:

- (1) Any cannabis or cannabis products that are not on the shipping manifest; or
- (2) Any cannabis or cannabis products that are less than or greater than the amount reflected on the shipping manifest, with the exception of marginal weight difference due to curing during transport.

F. Responsibility for discrepancy: The licensee transporting the cannabis or cannabis product is responsible for any discrepancies between the shipping manifest and the cannabis or cannabis products in its possession during transport, and subject to any enforcement or disciplinary action related to such discrepancy.

G. Void or change prohibited: Licensees shall not void or change a shipping manifest after departing from the originating licensed premises.

H. Documentation of all transport: A shipping manifest and chain of custody form shall accompany every transport of cannabis products.

I. Alternative notice of shipment: Notwithstanding any provision of this section to the contrary, if a transporting licensee cannot obtain access to the track and trace system, the licensee shall complete the shipping manifest outside of the track and trace system and promptly transmit it to the division and the licensee receiving the shipment by electronic mail. If the transporting licensee has access to the track and trace system and the licensee receiving the shipment does not have access to the track and trace system, the transporting licensee shall complete the shipping manifest in the track and trace system, transmit it to the division, and send a copy to the licensee receiving the shipment by electronic mail.

[16.8.2.13 NMAC - N, 08/24/2021]

16.8.2.14 LICENSURE PERIOD, EXPIRATION AND RENEWAL:

A. License period: The licensure period of a license shall be from the date of approval of the license application for a period of 12 months.

B. Automatic expiration of license: Unless otherwise renewed, suspended, or revoked, a license shall expire at 11:59 p.m. on the day indicated on the license as the expiration date or other written notification by the division.

C. License renewal: To timely renew a license, a completed license renewal application and annual license fee set forth in 16.8.11 NMAC shall be received by the division from the licensee no earlier than 60 calendar days before the expiration of the license and no later than 30 days before the expiration of the license through the division's electronic licensing portal. Failure to receive a notice for license renewal from the division does not relieve a licensee of the obligation to renew all licenses as required. In the event a license renewal application is not submitted and approved prior to the license expiration date, the licensee must not sell, transfer, transport, manufacture, test, or distribute any medical or commercial cannabis or cannabis products until the license is renewed. Upon the nonrenewal of a license, the division may initiate disciplinary action pursuant to the Uniform Licensing Act, Section 61-1-1 *et seq.*, NMSA 1978.

[16.8.2.14 NMAC - N, 08/24/2021]

16.8.2.15 WASTAGE OF CANNABIS OR CANNABIS PRODUCTS; PERMITTED METHODS:

Licensees that waste cannabis or cannabis products shall do so by rendering the cannabis or cannabis products unusable and unrecognizable prior to removal from licensed premises. The wastage of cannabis or cannabis products shall be documented, tracked by batch, and recorded in an electronic track and trace system specified by the

division. Wastage of cannabis or cannabis products shall occur only within the licensee's ordinary business hours. Licensees shall dispose of wasted cannabis or cannabis products and shall not attempt to incorporate wasted cannabis or cannabis plants into any product intended for human consumption.

A. Permitted methods of wastage: Wastage of cannabis or cannabis plants shall be accomplished by grinding and incorporating the cannabis into other ground material, such as soil, compost material, or leaf and yard waste, so that the resulting mixture is at least fifty percent non-cannabis material by volume;

B. Disposal of wasted cannabis: Disposal of wasted cannabis or cannabis plants shall be conducted in accordance with all applicable waste disposal laws, including hazardous waste disposal laws.

C. Holding time: Cannabis or cannabis products that a licensee intends to waste shall be held in a secured designated holding area for a minimum of 72-hours prior to being wasted. Licensees shall affix to each batch that is held for wasting documents that record information concerning the batch, including batch number or code, plant number, and weight. The batch to be wasted shall not be handled, moved, or wasted during the 72-hour period, unless by specific instruction of the division. Cannabis or cannabis products that are intended to be wasted may be subject to inspection by the division.

D. Documentation of wastage; retention: Licensees shall record the wastage of cannabis or cannabis products, including batch number, weight, plant number, the name of the receiving solid waste facility, dates of wastage and disposal, and any test results associated with a wasted batch, using an electronic system specified by the division, and shall deduct any wasted usable cannabis or cannabis plants from the licensee's inventory. The electronic record shall be retained for no less than two years following the disposal. Licensees shall additionally document the wastage of any cannabis using a video recording and shall retain the video recording of the destruction for no less than 120 days. Licensees shall make the video recording of the destruction available for the division's inspection and copying upon the division's request.

E. Notice to division: Licensees shall notify the division of the wastage of cannabis within five business days of the wastage.

[16.8.2.15 NMAC - N, 08/24/2021]

16.8.2.16 QUALITY ASSURANCE TESTING; COMPLAINT PROCEDURE:

A. Quality assurance testing by the division: The division or its representative may conduct quality assurance sampling and testing of cannabis or cannabis products, and may require a licensee to provide samples of cannabis or cannabis products for this purpose. The division may additionally adopt and enforce a randomized testing schedule for the sampling and testing of cannabis or cannabis products. The division may prohibit the sale or transfer of cannabis or cannabis products that are determined by the division to contain prohibited levels of contaminants, or that is found to have been improperly tested, or may require remediation of such cannabis that is consistent with the remediation standards of the division.

B. Complaints: If the division receives a verified complaint regarding the presence of mold, bacteria, or another contaminant in cannabis or cannabis products, or if the division has reason to believe that the presence of mold, bacteria, or another contaminant may jeopardize public health and safety, the division or its representative may conduct an inspection and may require a licensee to provide samples of cannabis or cannabis products for testing by the division. Licensees shall allow the division or its representative access to a facility or to collect cannabis or cannabis product samples. To be considered verified, a complaint must be made on a form provided by the division that at a minimum identifies:

- (1) date the complaint is filed;
- (2) location of the cannabis or cannabis product;
- (3) any identifiable features of the cannabis or cannabis product at issue, including the type and amount;
- (4) the nature of the complaint;
- (5) name and contact information of the complainant; and
- (6) complaint must be emailed to the licensee within 5 business days of the division receiving the complaint.

C. Division sampling and testing requirements: Division employees may possess cannabis samples for the sole purposes of establishing compliance with the Cannabis Regulation Act or division rules. The division shall comply with the following testing requirements:

- (1) the division shall maintain chain of custody documentation for any cannabis or cannabis product samples taken;
- (2) a written receipt shall be given to the licensee for all testing samples;
- (3) all testing samples shall be placed into a sealed container and clearly labeled;

- (4) all testing samples shall be tested by the division or a designated testing facility; and
- (5) the quantity of cannabis or cannabis products that is gathered by the division from a licensee for testing purposes shall not exceed the applicable sample sizes required by division rules.

D. Cost of testing: The licensee shall bear the cost of any testing required by the division.
[16.8.2.16 NMAC - N, 08/24/2021]

16.8.2.17 FIRE SAFETY LAWS: Licensees shall ensure all licensed premises are compliant with Article 52 of the New Mexico Statutes Annotated and any associated rules, including rules governing: posting of address, exit signs, emergency lighting, egress paths, evaluation plan, electrical wiring and lighting, exits and exit access, doors, egress hardware, aisle width, chemical storage, fire extinguishers, fire alarm, sprinkler system and fire suppression system, firewalls, combustible waste and housekeeping, storage, access from the exterior, and weeds, grass, vines or other growth capable of igniting.
[16.8.2.17 NMAC - N, 08/24/2021]

16.8.2.18 CONSTRUCTION OR ALTERATION OF CANNABIS ESTABLISHMENT BUILDINGS: If applicable, licensees shall ensure that all licensed premises are in compliance with the Construction Industries Licensing Act, Section 60-13-1 *et seq.*, NMSA 1978 and the LPG and CNG Act, Section 70-5-1 *et seq.*, NMSA 1978, including associated rules, as well as applicable codes, standards, zoning laws, licensing laws, and fire codes. If applicable, licensees shall further ensure that each structure, including manufactured homes used pursuant to Section 60-14-4(S), NMSA 1978, obtains a Certificate of Occupancy pursuant to 14.5.3.13 NMAC prior to occupancy and use of the structure.
[16.8.2.18 NMAC - N, 08/24/2021]

16.8.2.19 OCCUPATIONAL SAFETY: Licensees shall comply with the Occupational Health and Safety Act, Section 50-9-1 *et seq.*, NMSA 1978 and any associated rules.
[16.8.2.19 NMAC - N, 08/24/2021]

16.8.2.20 MONITORING OF LICENSEE:

A. Monitoring: The division may perform on-site assessments of an applicant or licensee during normal business hours to determine compliance with the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules.

B. Record access and review: The division may review any and all records related to the operations of the licensee and may require and conduct interviews with such persons or entities and persons affiliated with such entities, for the purpose of determining compliance with division rules or applicable laws. The division shall have access to the financial records of a licensee, including sales records and data from point-of-sale systems, and shall be granted immediate access to inspect or copy those records upon request.

C. Access to premises: Licensees shall provide the division timely access to any material and information necessary for determining compliance with division rules or applicable laws. Failure by a licensee to provide the division access to the premises or materials may result in disciplinary action.

D. Monitoring documents: Any failure to adhere to division rules or applicable laws documented by the division during monitoring may result in disciplinary action.

E. Report to law enforcement: The division shall refer suspected criminal activity or complaints alleging criminal activity that are made against a licensee to appropriate federal, state, or local law enforcement authorities.

F. Financial records: Licensees shall maintain detailed sales records in a manner and format approved by the division, inform the division of the location where such records are kept, and promptly update the division if the records are removed.

G. Audit: Licensees shall submit the results of a biennial audit to the division. The audit shall be conducted by an independent certified public accountant; the costs of which shall be borne by the licensee. Results of the audit shall be forwarded to the division. The division may extend, in writing, a licensee's audit requirement to three years following the timely submission of two biennial unqualified audits or two biennial unqualified reports.

H. Producer reports: A cannabis producer licensee shall submit reports on an annual basis, or as otherwise reasonably requested, and in the format specified by the division. The annual report shall include:

- (1) number of cannabis plants and cannabis inventory;
- (2) revenue from the wholesale of cannabis;
- (3) total number of transactions;

- (4) number of units provided without charge;
- (5) number of cannabis plants in production, including mature and immature plants;
- (6) number of cannabis plants harvested;
- (7) total yield of usable cannabis harvested from cannabis plants (in grams);
- (8) average yield per plant (in grams);
- (9) amount of cannabis (in grams) sold by wholesale;
- (10) amount of cannabis (in grams) purchased by wholesale;
- (11) number of live cannabis plants (including clones) and cannabis seeds sold;
- (12) amount of dried cannabis leaves and flowers in stock;
- (13) average price per gram of dried cannabis leaves and flowers;
- (14) total amount of dried cannabis leaves and flowers sold (in units);
- (15) total sales of dried cannabis leaves and flowers (in dollars and units);
- (16) actual water and energy use in the preceding 12 months;
- (17) demographic information required pursuant to the Cannabis Regulation Act, including data as defined by the applicant's social and economic equity plan, and the divisions published social and economic equity plan; and
- (18) all quality testing reports, to be included as attachments.

[16.8.2.20 NMAC - N, 08/24/2021]

16.8.2.21 CANNABIS PRODUCER LICENSURE; GENERAL PROVISIONS:

- A. License types:** The division may license two classes of producers:
 - (1) A cannabis producer; and
 - (2) A cannabis producer microbusiness.
- B. Division application forms:** All applications for licensure authorized pursuant to the Cannabis Regulation Act shall be made upon current forms prescribed by the division using the online application portal.
- C. License required:** Unless licensed pursuant to the Cannabis Regulation Act or division rules, a person shall not cultivate cannabis, including planting, growing, and harvesting cannabis, except for personal use as provided by the Cannabis Regulation Act and the Lynn and Erin Compassionate Use Act.
- D. Other activities prohibited:** Except as provided in subsection BB of 16.8.2.8 NMAC, no cannabis producer establishment licensee may manufacture cannabis products, courier cannabis or cannabis products, or engage in the retail sale of cannabis or cannabis products unless the licensee has properly applied for, and the division has approved, the applicable license type required for those activities.
- E. Vertically integrated cannabis establishment and integrated cannabis establishment microbusiness:** Applicants for a vertically integrated cannabis establishment or integrated cannabis establishment microbusiness must meet all qualifications for a cannabis producer or cannabis producer microbusiness to be approved for, and authorized to conduct, cannabis producer activities.

[16.8.2.21 NMAC - N, 08/24/2021]

16.8.2.22 APPLICATION REQUIREMENTS FOR CANNABIS PRODUCER LICENSE:

- A.** An initial application or renewal for cannabis producer licensure shall include the following:
 - (1) Contact information for the applicant and the cannabis establishment, to include:
 - (a) applicant's full legal name;
 - (b) applicant's date of birth, if applicable;
 - (c) applicant's mailing address;
 - (d) applicant's contact telephone number;
 - (e) applicant's contact email address;
 - (f) applicant's business physical address and mailing address, if different;
 - (g) applicant's business legal name, including a DBA name if applicable;
 - (h) applicant's business web address, if applicable;
 - (i) applicant's business hours of operation;
 - (j) name and contact information for each controlling person; and
 - (k) demographic data pursuant to the Cannabis Regulation Act;
 - (2) proof the applicant or each controlling person is at least 21 years of age, which shall include identification issued by a federal or state government that includes the name, date of birth, and picture of the applicant or controlling person;
 - (3) legible and accurate diagram and description of the location of the land or facility to be used

for the cannabis establishment and the method(s) to be used to produce cannabis in a portable document format (.pdf), and if requested by the division, digital photographic photos;

(4) fully executed and dated documentation of the applicant's ownership or legal authority to use the property, buildings, or other facilities, establishing the applicant is, or will be, entitled to possession of the premises for which the application is made;

(5) demonstration of a legal right to use the quantity of water that the division determines is needed for cannabis production, as evidenced by either:

(a) documentation from a water provider that the applicant has the right to use water from the provider and that the use of water from cannabis production is compliant with provider's rules, or

(b) documentation from the office of the state engineer showing that the applicant has a valid and existing water right, or a permit to develop a water right, for irrigation purposes for outdoor cultivation, or a commercial purpose for indoor cultivation at the proposed place of use of the cannabis establishment. The documentation may include any of the following:

(i) a state engineer permit or license in good standing, but not including a permit issued pursuant to Sections 72-12-1, -1.1, -1.2, or -1.3, NMSA 1978;

(ii) a subfile order or decree issued by a water rights adjudication court;

(iii) the findings of an office of the state engineer hydrographic survey; or

(iv) other documentation the office of the state engineer has deemed in writing as acceptable to the office of the state engineer under this rule.

(6) a plan to use, or certification that the applicant cannot feasibly use, energy and water reduction opportunities, including:

(a) drip irrigation and water collection;

(b) natural lighting and energy efficiency measures;

(c) renewable energy generation; and

(d) estimated water and energy use related to the applicants cultivation plan;

(7) a copy of a current business license, fire inspection report, and zoning approval;

(8) if applicable, certification the applicant is in good standing with the New Mexico secretary of state, including all documents filed with the New Mexico secretary of state;

(9) a list of all controlling persons, a list of other current or prior licensed cannabis businesses, documentation of the applicant's or a controlling person legal name change, and criminal history screening documents as set forth in 16.8.2.9 NMAC and the Cannabis Regulation Act;

(10) a detailed description of any criminal convictions of the applicant and any controlling person, including the date of each conviction, dates of incarceration, probation or parole, if applicable, description of the offense, and statement of rehabilitation of each conviction;

(11) if applicable, a description and legible electronic image of the labeling and packaging of the cannabis or cannabis products that the producer shall utilize, which satisfies the labeling requirements of the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, division rules, and other state or federal rules applicable to labeling and packaging;

(12) if applicable, a sample of the record form(s), which shall identify (among other items) the name of the wholesale purchaser, the date of the sale, the quantity, and price of medical or commercial cannabis sold;

(13) the initial number of mature cannabis plants, and immature cannabis plants, the applicant proposes for production and the amount of water the applicant plans to use on a monthly basis for a twelve month period;

(14) a summary of the proposed operations, including a list of cannabis or cannabis products produced at the location;

(15) certification the applicant will adhere to production requirements pursuant to the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules, including creating and maintaining a cultivation plan, and cannabis waste procedures for cannabis or cannabis products;

(16) certification the applicant will adhere to cannabis transport requirements pursuant to the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules, including the transport of unprocessed cannabis or cannabis products to other cannabis establishments;

(17) certification the applicant will adhere to New Mexico department of agriculture (NMDA) pesticide registration, licensing, and use requirements to ensure a safe product and environment;

(18) certification the applicant will adhere to security requirements pursuant to the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules, including requirements relating to safety and security procedures, security devices to be used, placement of security devices, personal safety, and crime

prevention techniques;

(19) certification the applicant will adhere to quality assurance requirements pursuant to the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules, including requirements relating to routine testing by a licensed testing laboratory, division inspection of licensed premises during normal business hours, and testing of cannabis;

(20) certification the applicant will adhere to applicable federal, state and local laws governing the protection of public health and the environment, including occupational health and safety, food safety, environmental impacts, natural resource protections, air quality, solid and hazardous waste management, and wastewater discharge;

(21) certification the applicant has never been denied a license or had a license suspended or revoked by the division or any other state cannabis licensing authority or a detailed description of any administrative orders, civil judgements, denial or suspension of a cannabis license, revocation of a cannabis license, or sanctions for unlicensed medical or commercial cannabis activity by any state licensing authority, against the applicant, controlling person, or a business entity in which the applicant or controlling person was a controlling person within the three years immediately preceding the date of the application;

(22) applicant's social and economic equity plan to encourage economic and social diversity in employment, including race, ethnicity, gender, age, and residential status of licensee, controlling persons and employees of applicant and whether the applicant, controlling persons, employees or the locations where the cannabis products are produced are located in an underserved rural community, including tribal, acequia, land grant-merced, federally designated opportunity zone, or other rural historic communities;

(23) an attestation of the following statement: Under penalty of perjury, I hereby declare that the information contained within and submitted with the application is complete, true and accurate. I understand that a misrepresentation of fact or violation of these rules may result in denial of the license application or revocation of a license issued; and

(24) payment of any required application or licensure fees as set forth in 16.8.11 NMAC. Cannabis plant fees, if applicable, shall be accessed by the division upon approval of an initial application, additional premises application or renewal application. The division must receive payment of cannabis plant fee prior to cultivation of cannabis plants or, if applicable, at the time of renewal.

B. Verification of information: The division may verify information contained in each application and accompanying documentation, including:

- (1) contacting the applicant or controlling person by telephone, mail, or electronic mail;
 - (2) conducting an on-site visit;
 - (3) requiring a face-to-face or virtual meeting and the production of additional documentation;
- or
- (4) consulting with state or local governments.

[16.8.2.22 NMAC - N, 08/24/2021]

16.8.2.23 SUBMITTAL OF APPLICATION FOR AMENDED CANNABIS PRODUCER LICENSE:

A. Application: A licensed producer shall submit to the division an application form for an amended license, pay the required fee, and must obtain approval from the division, prior to implementing any of the following:

- (1) material or substantial change of the size or location of the premises;
- (2) change of licensee's legal or business name;
- (3) change in water source, or licensees water and energy conservation plan, including, the reuse of water and disposal of effluent;
- (4) increase in plant count beyond which licensee is currently licensed to produce;
- (5) addition of a controlling person;
- (6) material or substantial change to a license's security system;
- (7) material or substantial modification of the premises; or
- (8) engaging in an activity which requires an addition or change of a license type.

B. Amended license not required: Changes to standard operating policies and procedures may be made without providing notification to the division, provided that licensees shall maintain at each licensed premises a copy of all current and prior operating policies and procedures.

C. Requirements and processing of application for amended license: The application for amended license must comply with all requirements applicable to initial applications, except that the application shall be clearly designated as one for an amended license. The division shall prorate required fees to align with the expiration date of the licensee's original license, which shall be the expiration date of the licensee's amended license, if

approved. The division shall approve or deny an application for amended license within 90 days of receiving a completed application. Denial of an application for amendment shall be pursuant to the Uniform Licensing Act.

D. Material or substantial change: Material or substantial changes requiring approval include:

(1) increase or decrease in the size of the premises, including the sale of property used for the cannabis establishment, the purchase of additional property for the use of the cannabis establishment, or a change in the location of the cannabis establishment;

(2) a change in the licensee's access to the water source submitted with an application for initial, amended, or renewal licensure or a 10 percent, or more, increase in the licensee's water usage;

(3) change to a licensee's security system, including relocation or security points or installation of a new security system; or

(4) modification of the premises to relocate cannabis activities.

[16.8.2.23 NMAC - N, 08/24/2021]

16.8.2.24 PRODUCER PREMISES DIAGRAM:

A. An applicant must submit to the division, with the application, a complete and detailed diagram of the proposed premises. The diagram shall be used by the division to determine whether the premises meets the requirements of the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules. The division shall deny an application if the premises does not qualify for licensure pursuant to federal, state or local laws.

B. The diagram shall show the boundaries of the property and the proposed premises to be licensed, the dimensions of each area that cannabis plants will be cultivated, the location(s) and the dimensions of other areas where other horticulture will be cultivated, if applicable. The diagram shall also include, as applicable, any equipment to be used, entrances and exits, interior partitions, location of lights in the cannabis plant cultivation area(s) and the maximum wattage or wattage equivalent, walls, rooms, windows, and doorways. The diagram shall include a brief statement or description of the principal activity to be conducted in each area on the premises.

C. The diagram shall show where all cameras are located and assign a number to each camera for identification purposes.

D. The diagram shall be to scale.

E. The diagram shall not contain any highlighting and the markings on the diagram shall be in black-and-white print.

F. If the proposed premises consists of only a portion of a property, the diagram must be labeled indicating which part of the property is the proposed premises and what the remaining property is used for.

G. If the proposed premises consists of only a portion of a property that will contain two or more licensed premises, then the diagram shall be supplemented with a description of how two or more licensed premises will be managed on the property.

H. If a proposed premise is located on only a portion of a property that also includes a residence, the diagram shall clearly show the designated buildings for the premises and the residence.

[16.8.2.24 NMAC - N, 08/24/2021]

16.8.2.25 PHYSICAL MODIFICATION OF PRODUCER PREMISES

A. Licensees shall not, without the prior written approval of the division, make a physical change, alteration, or modification of the licensed premises that materially or substantially alters the licensed premises or the use of the licensed premises from the premises diagram filed with the division.

B. Licensees whose licensed premises is to be materially or substantially changed, modified, or altered is responsible for filing a request for premises modification with the division.

C. Material or substantial changes, alterations, or modifications requiring approval include:

(1) when a building or structure will be erected, constructed, enlarged, altered, repaired, moved, improved, removed, converted or demolished, as defined and described in the applicable building codes, which require a permit from the construction industries division or the appropriate local jurisdiction;

(2) when electrical wiring, plumbing or mechanical work and LP gas work, as defined and described in the applicable construction codes for those trades, is to be installed, repaired or maintained in or on such building or structure, which require a permit from the construction industries division or the appropriate local jurisdiction;

(3) re-roofing and application of roof coatings that requires a building permit and inspections; or

(4) changing the occupancy activities conducted in or the use of an area identified in the last

premises diagram provided to the division that requires a new certificate of occupancy or fire inspection.

D. Licensees shall request approval of a material or substantial physical change, alteration, or modification in writing, and the request shall include:

- (1) a new premises diagram that conforms to requirements set forth in 16.8.2.18 NMAC;
- (2) a copy of the applicable building permit; and
- (3) a new certificate of occupancy, if applicable.

E. Licensees shall immediately notify the division within 24 hours if a federal or state authority requires a change to the premises;

F. Licensees shall promptly provide additional documentation requested by the division to evaluate the licensee's request to modify the licensed premises; and

G. The division shall notify the licensee, in writing, of approval or denial of a request for physical modification no later than 10 days after receiving a request.

[16.8.2.25 NMAC - N, 08/24/2021]

16.8.2.26 CANNABIS PRODUCER POLICIES AND PROCEDURES:

A. Minimum policy and procedure requirements: A producer shall develop, implement, and maintain on the licensed premises, standard policies and procedures, which shall include the following:

(1) cannabis testing criteria and procedures, which shall be consistent with the testing requirements of the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules, and shall include at a minimum, the following topics:

- (a) employee health and safety training materials;
 - (b) training requirements for the proper use of health and safety measures and controls;
 - (c) representative sampling and analytical testing of cannabis or cannabis products for contaminants prior to wholesale or transfer to another cannabis establishment;
 - (d) recordkeeping and chain of custody protocols for transportation of cannabis or cannabis product samples to a cannabis testing laboratory;
 - (e) recordkeeping and chain of custody protocols for transportation of cannabis or cannabis products to another cannabis establishment for any purpose;
 - (f) protocols to ensure that cannabis or cannabis products, including any samples of cannabis or cannabis products, are transported and stored in a manner that prevents degradation, contamination, tampering, or diversion;
 - (g) protocols for testing sample collection that ensures accurate test results; and
 - (h) procedures for remedial measures to bring cannabis or cannabis products into compliance with division standards or destruction of a tested batch of cannabis or cannabis products if the testing samples from the tested batch indicate noncompliance with applicable health and safety standards;
- (2) employee policies and procedures to address the following minimum requirements:
- (a) adherence to state and federal laws;
 - (b) responding to an emergency, including robbery or a serious accident;
 - (c) alcohol and drug-free workplace policies and procedures;
 - (d) safety and security procedures;
 - (e) occupational safety;
 - (f) crime prevention techniques; and
 - (g) if applicable, confidentiality laws, including the Health Insurance Portability and

Accountability Act of 1996; and

(3) training documentation prepared for each employee and statements signed by employees indicating the topics discussed, names and titles of presenters, and the date, time, and place the employee received said training.

B. Retention of training documentation: Licensees shall maintain documentation of an employee's training for a period of five years for current employees and at least six months after the termination of an employee's employment.

[16.8.2.26 NMAC - N, 08/24/2021]

16.8.2.27 MINIMUM REQUIREMENTS FOR THE PRODUCTION OF CANNABIS:

A. General requirements: Licensees shall ensure the following:

- (1) all production activities are done on premises that are in compliance with state and local

laws that do not conflict with the Cannabis Regulation Act or the Lynn and Erin Compassionate Use Acts;

(2) the licensee's right to use the quantity of water sufficient to meet the production facility's needs remains in good standing;

(3) plumbing shall be of adequate size and design, adequately installed, and maintained to carry sufficient quantities of water to required locations throughout the facility, including sufficient quantities of water to properly convey sewage and liquid disposable waste from the facility; and

(4) all weighting or measuring devices that are used in the wholesale of cannabis be appropriately documented as having undergone certified registration and calibration that is in accordance with applicable requirements of the New Mexico department of agriculture.

B. Cultivation plan: Licensees shall create and maintain a cultivation plan, which shall include all of the following:

(1) a detailed premises diagram showing all cultivation activity areas, boundaries, and dimensions in feet.

(2) square foot measurement of mature cannabis plant cultivation area(s), including aggregate square footage if the mature cannabis plant cultivation areas are noncontiguous;

(3) area(s) outside of the mature cannabis plant cultivation areas where only immature plants shall be maintained, if applicable;

(4) designated pesticide and other agricultural chemical storage area(s);

(5) designated processing area(s) if the licensee will process on site;

(6) designated packaging area(s) if the licensee will package products on site;

(7) designated composting area(s) if the licensee will compost plant or cannabis waste on site;

(8) designated secured area(s) for cannabis waste if different than composting area(s);

(9) designated area(s) for harvested cannabis storage;

(10) designated seed production area(s) which may contain mature plants for nursery purposes only.

C. Lighting: For indoor and mixed-light cultivation, a licensee shall create and maintain a lighting diagram, which shall include the following:

(1) location of all lights in the cannabis plant cultivation area(s); and

(2) maximum wattage, or wattage equivalent, of each light.

D. Pest management: Licensees shall create and maintain a pest management plan, which shall include product name and active ingredient(s) of all pesticides to be applied to cannabis during any stage of plant growth. Licensees are encouraged to create and implement integrated pest management protocols, including chemical, biological, and cultural methods to control or prevent the introduction of pests on the cultivation site.

E. Cannabis waste: Licensees shall create and maintain cannabis waste procedures meeting the requirements set forth in 16.8.2.22 NMAC.

F. Safety and health requirements: Licensees shall ensure the following:

(1) all equipment, implements, and fixtures that are used for the production of cannabis shall be used exclusively for the production of cannabis and meet sanitation and safety standards required by the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, division rules, and any other state or federal laws;

(2) production is conducted in a manner that does not allow cross-contamination from chemical or biological hazards;

(3) any person who, by medical examination or supervisory observation, is shown to have, or appears to have, an illness, open lesion, including a boil, sore, or infected wound, or any other abnormal source of microbial contamination for whom there is a reasonable possibility of contact with preparation surfaces for cannabis, shall be excluded from any operations which may be anticipated to result in such contamination until the condition is corrected;

(4) hand-washing facilities are provided that are adequate, accessible, furnished with running water at a suitable temperature, conveniently located in indoor production facilities, in restrooms, and wherever good sanitary practices require employees to wash or sanitize their hands, and stocked with effective hand-cleaning and sanitizing preparations, and sanitary towel service or suitable drying devices;

(5) all persons involved in preparing or handling cannabis conform to hygienic practices while on duty, including:

(a) maintaining adequate personal cleanliness;

(b) wearing gloves while handling processed cannabis or unpackaged but processed cannabis products;

- (c) possessing a valid New Mexico environment department food handler card if handling processed cannabis or unpackaged but processed cannabis products; and
 - (d) washing hands thoroughly in an adequate hand-washing facility before starting work, at any other time when the hands may have become soiled or contaminated, and both before putting gloves on and after removal of gloves, if the person is handling processed cannabis or unpackaged but processed cannabis products;
 - (6) operating systems for waste disposal are maintained in an adequate manner so that they do not constitute a source of contamination in areas where cannabis is exposed;
 - (7) water damage is properly and timely treated to protect health and safety of employees and the public, and that fiberglass and other insulation material is not exposed;
 - (8) adequate safety-type lighting in all areas where cannabis is produced or stored, if applicable, and where equipment is cleaned;
 - (9) rubbish is disposed of so as to minimize the development of odor, minimize the potential for the waste becoming an attractant and harborage, or breeding place for pests;
 - (10) premises, fixtures, and physical facilities where cannabis or cannabis products are produced are maintained to ensure the health and safety of employee and the public;
 - (11) contact surfaces, including utensils and equipment used for preparation of cannabis or cannabis products, are cleaned and sanitized as frequently as necessary to protect against contamination;
 - (12) only environmental protection agency (EPA) registered sanitizing agents are used in production operations and that they are used in accordance with labeled instructions;
 - (13) toxic cleaning compounds, sanitizing agents, and pesticide chemicals shall be identified, held, and stored in a manner that protects against contamination of cannabis or cannabis products and that otherwise satisfies the requirements of this rule;
 - (14) storage and transportation of cannabis and cannabis products is accomplished under conditions that will maintain security and protect the cannabis or cannabis products against physical, chemical, and microbial contamination, as well as against deterioration of the cannabis or cannabis products and the container; and
 - (15) that there is sufficient space for placement of equipment and storage of material as is necessary for the maintenance of sanitary operations for production of cannabis.
- [16.8.2.27 NMAC - N, 08/24/2021]

16.8.2.28 USE OF PESTICIDES BY LICENSED PRODUCERS: The use of any pesticide by a licensed producer in the growth of cannabis shall be in accordance with the New Mexico Pesticide Control Act, Section 76-4-1 *et seq.*, NMSA 1978, and any associated rules.
[16.8.2.28 NMAC - N, 08/24/2021]

16.8.2.29 SEVERABILITY: If any part or application of this rule is held to be invalid, the remainder or its application to other situations or persons shall not be affected. Any section of this rule legally severed shall not interfere with the remaining protections and duties provided by this rule.
[16.8.2.29 NMAC - N, 08/24/2021]

History of 16.8.2 NMAC: [RESERVED]

Media Contact: Charlie Moore
Charlie.Moore@tax.nm.gov
(505) 670-5406

October 25, 2023

Tax and Rev brings cannabis businesses into tax compliance
80 license holders file Gross Receipts, Cannabis Excise Taxes after receiving notices

SANTA FE — The Taxation and Revenue Department this summer began contacting cannabis retail license holders who had failed to file one or more tax returns since registering with the Department.

Adult use recreational cannabis sales are subject to both Gross Receipts Tax (GRT) and Cannabis Excise Tax and retailers must be in good standing with taxes to renew their licenses with the Regulation and Licensing Department.

Since the effort began, 80 retailers have come into compliance on their tax filings.

The Department works closely with the Regulation and Licensing Department to compare active cannabis license holders with other data sources to ensure compliance.

More than 100 license holders have not yet complied, though in some cases, one operator may hold multiple licenses for different locations. Tax and Rev is working with the Regulation and Licensing Department to confirm which license holders are actually operating, and both agencies may perform in person compliance checks.

“Cannabis is a relatively new industry with many new players who may be struggling to get their businesses up and running,” said Taxation and Revenue Secretary Stephanie Schardin Clarke. “We are here to assist taxpayers to voluntarily comply with the tax law, but cannabis retailers must also make a good faith effort to comply.”

Once cannabis businesses are registered with the Department, they are required to file GRT and cannabis excise tax returns, even if they have no sales.

Taxation and Revenue is committed to helping taxpayers come into compliance. That can include offering managed audits, a voluntary program to help taxpayers resolve tax debts, and payment plans.

More information about managed audits is available [in publication FYI 404](#). The publication can be found the publications folder on the Forms & Publications page of tax.newmexico.gov.

Payment plans can be established using the [Taxpayer Access Point](#) self-service portal at tax.newmexico.gov.

Through September 2023, the Department has distributed more than \$47 million in Cannabis Excise Tax revenue to the State general fund and to local governments. Payments from the 80 taxpayers who have come into compliance in recent months will result in larger distributions in coming months.

###

The Taxation and Revenue Department serves the State of New Mexico by providing fair and efficient tax and motor vehicle services. It administers more than 35 tax programs and distributes revenue to the State and to local and tribal governments throughout New Mexico.

The Department strives to reduce taxpayer burden through clearer communication, statutes, regulations, forms, correspondence and instructions.

Connect with us on tax.newmexico.gov, LinkedIn, YouTube and Twitter @NM_MVD

This is an emergency amendment to 16.8.2 NMAC amending sections 22, 24, 25, 30, 32, 36, 38, 44 and 46.

16.8.2.22 APPLICATION REQUIREMENTS FOR CANNABIS PRODUCER LICENSE:

- A.** An initial application or renewal for cannabis producer licensure shall include the following:
- (1)** Contact information for the applicant and the cannabis establishment, to include:
 - (a)** applicant's full legal name;
 - (b)** applicant's date of birth, if applicable;
 - (c)** applicant's mailing address;
 - (d)** applicant's contact telephone number;
 - (e)** applicant's contact email address;
 - (f)** applicant's business physical address and mailing address, if different;
 - (g)** applicant's business legal name, including a DBA name if applicable;
 - (h)** applicant's business web address, if applicable;
 - (i)** applicant's business hours of operation;
 - (j)** name and contact information for each controlling person; and
 - (k)** demographic data pursuant to the Cannabis Regulation Act;
 - (2)** proof the applicant or each controlling person is at least 21 years of age, which shall include identification issued by a federal or state government that includes the name, date of birth, and picture of the applicant or controlling person;
~~[(3)] legible and accurate diagram and description of the location of the land or facility to be used for the cannabis establishment and the method(s) to be used to produce cannabis in a portable document format (.pdf), and if requested by the division, digital photographic photos;~~
(3) demonstration of a legal right to use the quantity of water that the division determines is needed for cannabis production, as evidenced by either:
 - (a)** documentation from a water provider that the applicant has the right to use water from the provider and that the use of water from cannabis production is compliant with provider's rules, or
 - (b)** documentation from the office of the state engineer showing that the applicant has a valid and existing water right, or a permit to develop a water right, for irrigation purposes for outdoor cultivation, or a commercial purpose for indoor cultivation at the proposed place of use of the cannabis establishment. The documentation may include any of the following:
 - (i)** a state engineer permit or license in good standing, but not including a permit issued pursuant to Sections 72-12-1, -1.1, -1.2, or -1.3, NMSA 1978;
 - (ii)** a subfile order or decree issued by a water rights adjudication court;
 - (iii)** the findings of an office of the state engineer hydrographic survey; or
 - (iv)** other documentation the office of the state engineer has deemed in writing as acceptable to the office of the state engineer under this rule.
 - ~~[(5)]~~**(4)** a plan to use, or certification that the applicant cannot feasibly use, energy and water reduction opportunities, including:
 - (a)** drip irrigation and water collection;
 - (b)** natural lighting and energy efficiency measures;
 - (c)** renewable energy generation; and
 - (d)** estimated water and energy use related to the applicants cultivation plan;
 - ~~[(6)]~~**(5)** if applicable, certification the applicant is in good standing with the New Mexico secretary of state, including all documents filed with the New Mexico secretary of state;
 - ~~[(7)]~~**(6)** a list of all controlling persons, a list of other current or prior licensed cannabis businesses, documentation of the applicant's or a controlling person legal name change, and criminal history screening documents as set forth in 16.8.2.9 NMAC and the Cannabis Regulation Act;
 - ~~[(8)]~~**(7)** a detailed description of any criminal convictions of the applicant and any controlling person, including the date of each conviction, dates of incarceration, probation or parole, if applicable, description of the offense, and statement of rehabilitation of each conviction;
 - ~~[(9)]~~**(8)** the initial number of mature cannabis plants, and immature cannabis plants, the applicant proposes for production and the amount of water the applicant plans to use on a monthly basis for a twelve month period;
 - ~~[(10)]~~**(9)** certification the applicant will adhere to production requirements pursuant to the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules, including creating and

maintaining a cultivation plan, and cannabis waste procedures for cannabis or cannabis products;

~~[(14)]~~**(10)** certification the applicant will adhere to cannabis transport requirements pursuant to the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules, including the transport of unprocessed cannabis or cannabis products to other cannabis establishments;

~~[(12)]~~**(11)** certification the applicant will adhere to New Mexico department of agriculture (NMDA) pesticide registration, licensing, and use requirements to ensure a safe product and environment;

~~[(13)]~~**(12)** certification the applicant will adhere to security requirements pursuant to the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules, including requirements relating to safety and security procedures, security devices to be used, placement of security devices, personal safety, and crime prevention techniques;

~~[(14)]~~**(13)** certification the applicant will adhere to quality assurance requirements pursuant to the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules, including requirements relating to routine testing by a licensed testing laboratory, division inspection of licensed premises during normal business hours, and testing of cannabis;

~~[(15)]~~**(14)** certification the applicant will adhere to applicable federal, state and local laws governing the protection of public health and the environment, including occupational health and safety, food safety, environmental impacts, natural resource protections, air quality, solid and hazardous waste management, and wastewater discharge;

~~[(16)]~~**(15)** certification the applicant has never been denied a license or had a license suspended or revoked by the division or any other state cannabis licensing authority or a detailed description of any administrative orders, civil judgements, denial or suspension of a cannabis license, revocation of a cannabis license, or sanctions for unlicensed medical or commercial cannabis activity by any state licensing authority, against the applicant, controlling person, or a business entity in which the applicant or controlling person was a controlling person within the three years immediately preceding the date of the application;

~~[(17)]~~**(16)** applicant's social and economic equity plan to encourage economic and social diversity in employment, including race, ethnicity, gender, age, and residential status of licensee, controlling persons and employees of applicant and whether the applicant, controlling persons, employees or the locations where the cannabis products are produced are located in an underserved rural community, including tribal, acequia, land grant-merced, federally designated opportunity zone, or other rural historic communities;

~~[(18)]~~**(17)** certification the applicant has obtained a current local jurisdiction business license, or will prior to operation of the cannabis establishment, and the applicant shall adhere to local zoning ordinance;

(18) certification the applicant will maintain at all times a legible and accurate diagram containing information required by 16.8.2.24 NMAC and description of the location of the land or facility used for the cannabis establishment and the method(s) to be used to produce cannabis which shall be made immediately available upon request by the division;

(19) an attestation of the following statement: Under penalty of perjury, I hereby declare that the information contained within and submitted with the application is complete, true and accurate. I understand that a misrepresentation of fact or violation of these rules may result in denial of the license application or revocation of a license issued; and

(20) payment of any required application or licensure fees as set forth in 16.8.11 NMAC. Cannabis plant fees, if applicable, shall be accessed by the division upon approval of an initial application, additional premises application or renewal application. The division must receive payment of cannabis plant fee prior to cultivation of cannabis plants or, if applicable, at the time of renewal.

B. Verification of information: The division may verify information contained in each application and accompanying documentation, including:

- (1)** contacting the applicant or controlling person by telephone, mail, or electronic mail;
- (2)** conducting an on-site visit;
- (3)** requiring a face-to-face or virtual meeting and the production of additional documentation;

or

- (4)** consulting with state or local governments.

[16.8.2.22 NMAC – N, 08/22/2021; A/E, 12/06/2021; A/E, 01/13/2022]

16.8.2.24 PRODUCER PREMISES DIAGRAM:

A. An applicant must ~~[submit to the division, with the application,]~~ maintain on its licensed premise at all times, a complete and detailed diagram of the ~~[proposed]~~ premises. The diagram shall be used by the division

to determine whether the premises meets the requirements of the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules. ~~[The division shall deny an application if the premises does not qualify for licensure pursuant to federal, state or local laws.]~~

B. The diagram shall show the boundaries of the property and the proposed premises to be licensed, the dimensions of each area that cannabis plants will be cultivated, the location(s) and the dimensions of other areas where other horticulture will be cultivated, if applicable. The diagram shall also include, as applicable, any equipment to be used, entrances and exits, interior partitions, location of lights in the cannabis plant cultivation area(s) and the maximum wattage or wattage equivalent, walls, rooms, windows, and doorways. The diagram shall include a brief statement or description of the principal activity to be conducted in each area on the premises.

C. The diagram shall show where all cameras are located and assign a number to each camera for identification purposes.

D. The diagram shall be to scale.

E. The diagram shall not contain any highlighting and the markings on the diagram shall be in black-and-white print.

F. If the proposed premises consists of only a portion of a property, the diagram must be labeled indicating which part of the property is the proposed premises and what the remaining property is used for.

G. If the proposed premises consists of only a portion of a property that will contain two or more licensed premises, then the diagram shall be supplemented with a description of how two or more licensed premises will be managed on the property.

H. If a proposed premise is located on only a portion of a property that also includes a residence, the diagram shall clearly show the designated buildings for the premises and the residence.

[16.8.2.24 NMAC - N, 08/24/2021; A/E, 01/13/2022]

16.8.2.25 PHYSICAL MODIFICATION OF PRODUCER PREMISES

A. Licensees shall not, without the prior written approval of the division, make a physical change, alteration, or modification of the licensed premises that materially or substantially alters the licensed premises or the use of the licensed premises ~~[from the premises diagram filed with the division].~~

B. Licensees whose licensed premises is to be materially or substantially changed, modified, or altered is responsible for filing a request for premises modification with the division.

C. Material or substantial changes, alterations, or modifications requiring approval include:

(1) when a building or structure will be erected, constructed, enlarged, altered, repaired, moved, improved, removed, converted or demolished, as defined and described in the applicable building codes, which require a permit from the construction industries division or the appropriate local jurisdiction;

(2) when electrical wiring, plumbing or mechanical work and LP gas work, as defined and described in the applicable construction codes for those trades, is to be installed, repaired or maintained in or on such building or structure, which require a permit from the construction industries division or the appropriate local jurisdiction;

(3) re-roofing and application of roof coatings that requires a building permit and inspections; or

(4) changing the occupancy activities conducted in or the use of an area ~~[identified in the last premises diagram provided to the division]~~ that requires a new certificate of occupancy or fire inspection.

D. Licensees shall request approval of a material or substantial physical change, alteration, or modification in writing, and the request shall include:

~~(1) a new premises diagram that conforms to requirements set forth in 16.8.2.18 NMAC;~~

~~(2)~~(1) a copy of the applicable building permit; and

~~(3)~~(2) a new certificate of occupancy, if applicable.

E. Licensees shall immediately notify the division within 24 hours if a federal or state authority requires a change to the premises;

F. Licensees shall promptly provide additional documentation requested by the division to evaluate the licensee's request to modify the licensed premises; and

G. The division shall notify the licensee, in writing, of approval or denial of a request for physical modification no later than 10 days after receiving a request.

[16.8.2.25 NMAC - N, 08/24/2021; A/E, 01/13/2022]

16.8.2.30 APPLICATION REQUIREMENTS FOR CANNABIS MANUFACTURER LICENSE:

A. An initial application or renewal for cannabis manufacturer licensure shall include the following:

- (1) Contact information for the applicant and the cannabis establishment, to include:
 - (a) applicant's full legal name;
 - (b) applicant's mailing address;
 - (c) applicant's contact telephone number;
 - (d) applicant's contact email address;
 - (e) applicant's business physical address and mailing address, if different;
 - (f) applicant's business legal name, including a DBA name if applicable;
 - (g) applicant's business web address, if applicable;
 - (h) applicant's business hours of operation;
 - (i) name and contact information for each controlling person;
 - (j) demographic data pursuant to the Cannabis Regulation Act; and
 - (k) license type sought (Class I, Class II, Class III, or Class IV);
- (2) proof the applicant or each controlling person is at least 21 years of age, which shall include identification issued by a federal or state government that includes the name, date of birth, and picture of the applicant or controlling person;
 - ~~[(3)]~~ legible and accurate diagram containing information required by 16.8.2.32 NMAC and description of the location of the land or facility to be used for the cannabis establishment and the method(s) to be used to manufacture cannabis (extraction, infusion, packaging, labeling), including a description of extraction and infusion methods, in a portable document format (.pdf), and if requested by the division, digital photographic photos;]
 - ~~[(4)]~~(3) demonstration of a legal right to use the quantity of water that the division determines is needed for cannabis manufacturing, as evidenced by either:
 - (a) documentation from a water provider that the applicant has the right to use water from the provider and that the use of water for cannabis manufacturing is compliant with provider's rules, or
 - (b) documentation from the office of the state engineer showing that the applicant has a valid and existing water right, or a permit to develop a water right, at the proposed place of use of the cannabis establishment. The documentation may include any of the following:
 - (i) a state engineer permit or license in good standing, but not including a permit issued pursuant to Sections 72-12-1, -1.1, -1.2, or -1.3, NMSA 1978;
 - (ii) a subfile order or decree issued by a water rights adjudication court;
 - (iii) the findings of an office of the state engineer hydrographic survey; or
 - (iv) other documentation the office of the state engineer has deemed in writing as acceptable to the office of the state engineer under this rule;
 - ~~[(5)]~~(4) if applicable, certification the applicant is in good standing with the New Mexico secretary of state, including all documents filed with the New Mexico secretary of state;
 - ~~[(6)]~~(5) a list of all controlling persons, a list of other current or prior licensed cannabis businesses, documentation of the applicant's or a controlling person legal name change, and criminal history screening documents as set forth in 16.8.2.9 NMAC and the Cannabis Regulation Act;
 - ~~[(7)]~~(6) a detailed description of any criminal convictions of the applicant and any controlling person, including the date of each conviction, dates of incarceration, probation or parole, if applicable, description of the offense, and statement of rehabilitation of each conviction;
 - ~~[(8)]~~(7) if applicable, proof of prior approval by the New Mexico regulation and licensing department for the use of any compressed gas extraction equipment to be utilized by the manufacturer;
 - ~~[(9)]~~(8) if applicable, a sample of the record form(s), which shall identify (among other items) the name of the wholesale purchaser, the date of the sale, the quantity, and price of cannabis sold;
 - ~~[(10)]~~(9) for class II, III, and IV licenses, documentation that the applicant has obtain all necessary authority required for the production of edibles and topicals from the New Mexico environment department and that such authority is valid at the time the license application is submitted;
 - ~~[(11)]~~(10) certification the applicant will adhere to manufacturing requirements pursuant to the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules;
 - ~~[(12)]~~(11) certification the applicant will adhere to cannabis transport requirements pursuant to the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules;
 - ~~[(13)]~~(12) certification the applicant will adhere to security requirements pursuant to the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules;
 - ~~[(14)]~~(13) certification the applicant will adhere to quality assurance requirements pursuant to the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules;
 - ~~[(15)]~~(14) certification the applicant will adhere to applicable federal, state and local laws

governing the protection of public health and the environment, including occupational health and safety, food safety, fire safety, environmental impacts, natural resource protections, air quality, solid and hazardous waste management, and wastewater discharge;

~~(16)~~**(15)** certification the applicant has never been denied a license or had a license suspended or revoked by the division or any other state cannabis licensing authority or a detailed description of any administrative orders, civil judgements, denial or suspension of a cannabis license, revocation of a cannabis license, or sanctions for unlicensed cannabis activity by any state licensing authority, against the applicant, controlling person, or a business entity in which the applicant or controlling person was a controlling person within the three years immediately preceding the date of the application;

~~(17)~~**(16)** certification the applicant is not licensed under the Liquor Control Act.

~~(18)~~**(17)** applicant's social and economic equity plan to encourage economic and social diversity in employment, including race, ethnicity, gender, age, and residential status of licensee, controlling persons and employees of applicant and whether the applicant, controlling persons, employees or the locations where the cannabis products are produced are located in an underserved rural community, including tribal, acequia, land grant-merced, federally designated opportunity zone, or other rural historic communities;

~~(19)~~**(18)** an attestation that the manufacturer will not use dimethylsulfoxide (DMSO) in the production of cannabis products, and will not possess DMSO on the premises of the manufacturer:

~~(20)~~**(19)** certification the applicant has obtained a current local jurisdiction business license, or will prior to operation of the cannabis establishment, and the applicant shall adhere to local zoning ordinance;

(20) certification the applicant will maintain at all times a legible and accurate diagram containing information required by 16.8.2.32 NMAC and description of the location of the land or facility to be used for the cannabis establishment and the method(s) to be used to manufacture cannabis (extraction, infusion, packaging, labeling), including a description of extraction and infusion methods, which shall be made immediately available upon request by the division:

(21) an attestation of the following statement: Under penalty of perjury, I hereby declare that the information contained within and submitted with the application is complete, true and accurate. I understand that a misrepresentation of fact or violation of these rules may result in denial of the license application or revocation of a license issued; and

(22) payment of any required fees as set forth in 16.8.11 NMAC.

B. Verification of information: The division may verify information contained in each application and accompanying documentation by:

- (1)** contacting the applicant or controlling person by telephone, mail, or electronic mail;
 - (2)** conducting an on-site visit;
 - (3)** requiring a face-to-face or virtual meeting and the production of additional documentation;
- or
- (4)** consulting with state or local governments.

C. Trade secrets: Any applicant submitting operating procedures and protocols to the division pursuant to the Lynn and Erin Compassionate Use Act, the Cannabis Regulation Act, or division rules, may claim such information as a trade secret or confidential by clearly identifying such information as "confidential" on the document at the time of submission. Any claim of confidentiality by an applicant must be based on the applicant's good faith belief that the information marked as confidential constitutes a trade secret as defined in the Uniform Trade Secrets Act, Sections 57-3A-1 to 7, NMSA 1978. In the event the division receives a request to inspect such documents, the division will notify the applicant or licensee, via the current email of record. If the division does not receive an injunction pursuant to the Uniform Trade Secrets Act within ten days of the request to inspect, the division will make the documents marked confidential available for inspection as required pursuant to the Inspection of Public Records Act.

[16.8.2.30 NMAC – N/E, 09/08/2021; A/E, 12/02/2021; N, 12/28/2021; A/E, 01/13/2022]

16.8.2.32 MANUFACTURER PREMISES DIAGRAM:

A. An applicant must ~~[submit to the division, with the application,]~~ maintain on its licensed premise at all times, a complete and detailed diagram of the ~~[proposed]~~ premises. The diagram shall be used by the division to determine whether the premises meets the requirements of the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, and division rules. ~~[The division shall deny an application if the premises does not qualify for licensure pursuant to federal, state or local laws.]~~

B. The diagram shall show the boundaries of the property and the proposed premises to be licensed,

the dimensions of each area that cannabis will be manufactured, and the location of the extraction area. The diagram shall also include, as applicable, any equipment to be used, entrances and exits, interior partitions, walls, rooms, windows, and doorways. The diagram shall include a brief statement or description of the principal activity to be conducted in each area on the premises.

C. The diagram shall show where all cameras are located and assign a number to each camera for identification purposes.

D. The diagram shall be to scale.

E. The diagram shall not contain any highlighting and the markings on the diagram shall be in black-and-white print.

F. If the proposed premises consists of only a portion of a property, the diagram must be labeled indicating which part of the property is the proposed premises and what the remaining property is used for.

G. If the proposed premises consists of only a portion of a property that will contain two or more licensed premises, then the diagram shall be supplemented with a description of how two or more licensed premises will be managed on the property.

H. If a proposed premise is located on only a portion of a property that also includes a residence, the diagram shall clearly show the designated buildings for the premises and the residence.

[16.8.2.32 NMAC – N/E, 09/08/2021; N, 12/28/2021; A/E, 01/13/2022]

16.8.2.36 APPLICATION REQUIREMENTS FOR CANNABIS RETAILER LICENSE:

A. An initial application or renewal for cannabis retailer licensure shall include the following:

(1) Contact information for the applicant and the cannabis establishment, to include:

- (a)** applicant’s full legal name;
- (b)** applicant’s date of birth, if applicable;
- (c)** applicant’s mailing address;
- (d)** applicant’s contact telephone number;
- (e)** applicant’s contact email address;
- (f)** applicant’s business physical address and mailing address, if different;
- (g)** applicant’s business legal name, including a DBA name if applicable;
- (h)** applicant’s business web address, if applicable;
- (i)** applicant’s business hours of operation;
- (j)** name and contact information for each controlling person;
- (k)** demographic data pursuant to the Cannabis Regulation Act; and
- (l)** license type sought;

(2) proof the applicant or each controlling person is at least 21 years of age, which shall include identification issued by a federal or state government that includes the name, date of birth, and picture of the applicant or controlling person;

~~**(3)** legible and accurate diagram and description of the location of the land or facility to be used for the cannabis establishment, including a description of each retail area and all security requirements, in a portable document format (.pdf), and if requested by the division, digital photographic photos;~~

~~**(4)**~~**(3)** if applicable, certification the applicant is in good standing with the New Mexico secretary of state, including all documents filed with the New Mexico secretary of state;

~~**(5)**~~**(4)** a list of all controlling persons, a list of other current or prior licensed cannabis businesses, documentation of the applicant’s or a controlling person legal name change, and criminal history screening documents as set forth in 16.8.2.9 NMAC and the Cannabis Regulation Act;

~~**(6)**~~**(5)** a detailed description of any criminal convictions of the applicant and any controlling person, including the date of each conviction, dates of incarceration, probation or parole, if applicable, description of the offense, and statement of rehabilitation of each conviction;

~~**(7)**~~**(6)** certification the applicant will adhere to retail requirements pursuant to the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules;

~~**(8)**~~**(7)** certification the applicant will adhere to cannabis transport requirements pursuant to the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules;

~~**(9)**~~**(8)** certification the applicant will adhere to security requirements pursuant to the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules;

~~**(10)**~~**(9)** certification the applicant will adhere to quality assurance requirements pursuant to the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules;

~~**(11)**~~**(10)** certification the applicant will adhere to applicable federal, state and local laws

governing the protection of public health and the environment, including occupational health and safety, food safety, environmental impacts, natural resource protections, air quality, solid and hazardous waste management, and wastewater discharge;

~~[(12)]~~**(11)** certification the applicant has never been denied a license or had a license suspended or revoked by the division or any other state cannabis licensing authority or a detailed description of any administrative orders, civil judgements, denial or suspension of a cannabis license, revocation of a cannabis license, or sanctions for unlicensed cannabis activity by any state licensing authority, against the applicant, controlling person, or a business entity in which the applicant or controlling person was a controlling person within the three years immediately preceding the date of the application;

~~[(13)]~~**(12)** certification the applicant is not licensed under the Liquor Control Act;

~~[(14)]~~**(13)** certification the applicant has obtained a current local jurisdiction business license, or will prior to operation of the cannabis establishment, and the applicant shall adhere to local zoning ordinance;

(14) certification the applicant will maintain at all times a legible and accurate diagram and description containing information required by 16.8.2.38 NMAC and description of the location of the land or facility to be used for the cannabis establishment, including a description of each retail area and all security requirements which shall be made immediately available upon request by the division;

(15) if applicable, certification the applicant will adhere to courier requirements pursuant to the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules;

(16) applicant's social and economic equity plan to encourage economic and social diversity in employment, including race, ethnicity, gender, age, and residential status of licensee, controlling persons and employees of applicant and whether the applicant, controlling persons, employees or the locations where the cannabis products are produced are located in an underserved rural community, including tribal, acequia, land grant-merced, federally designated opportunity zone, or other rural historic communities;

(17) an attestation of the following statement: Under penalty of perjury, I hereby declare that the information contained within and submitted with the application is complete, true and accurate. I understand that a misrepresentation of fact or violation of these rules may result in denial of the license application or revocation of a license issued; and

(18) payment of any required fees as set forth in 16.8.11 NMAC.

B. Verification of information: The division may verify information contained in each application and accompanying documentation by:

(1) contacting the applicant or controlling person by telephone, mail, or electronic mail;

(2) conducting an on-site visit;

(3) requiring a face-to-face or virtual meeting and the production of additional documentation;

or

(4) consulting with state or local governments.

[16.8.2.36 NMAC – N, 12/28/2021, A/E 01/13/20222]

16.8.2.38 RETAIL PREMISES DIAGRAM:

A. An applicant [~~submit to the division, with the application,~~] maintain on its licensed premise at all times, a complete and detailed diagram of the [proposed] premises. The diagram shall be used by the division to determine whether the premises meets the requirements of the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, and division rules. [~~The division shall deny an application if the premises does not qualify for licensure pursuant to federal, state or local laws.~~]

B. The diagram shall show the boundaries of the property and the proposed premises to be licensed, the dimensions of each area that cannabis will be stored and available to the public. The diagram shall also include, as applicable, any equipment to be used, entrances and exits, interior partitions, walls, rooms, windows, and doorways. The diagram shall include a brief statement or description of the principal activity to be conducted in each area on the premises.

C. The diagram shall show where all cameras are located and assign a number to each camera for identification purposes.

D. The diagram shall be to scale.

E. The diagram shall not contain any highlighting and the markings on the diagram shall be in black-and-white print.

F. If the proposed premises consists of only a portion of a property, the diagram must be labeled indicating which part of the property is the proposed premises and what the remaining property is used for.

G. If the proposed premises consists of only a portion of a property that will contain two or more licensed premises, then the diagram shall be supplemented with a description of how two or more licensed premises will be managed on the property.

H. If a proposed premise is located on only a portion of a property that also includes a residence, the diagram shall clearly show the designated buildings for the premises and the residence.
[16.8.2.38 NMAC – N, 12/28/2021; A/E, 01/13/2022]

16.8.2.44 APPLICATION REQUIREMENTS FOR CANNABIS TESTING LABORATORY

LICENSE:

A. Contents of application:

(1) for any initial or renewal application, contact information for the applicant and the cannabis establishment, to include:

- (a)** applicant’s full legal name;
- (b)** applicant’s mailing address;
- (c)** applicant’s contact telephone number;
- (d)** applicant’s contact email address;
- (e)** applicant’s business physical address and mailing address, if different;
- (f)** applicant’s business legal name, including a DBA name, if applicable;
- (g)** applicant’s business web address, if applicable;

(2) for any initial application, information about controlling persons, to include:

- (a)** name and contact information;
- (b)** documentation of legal name change, if applicable;
- (c)** criminal history screening documents. as set forth in 16.8.2.9 NMAC and the

Cannabis Regulation Act;

(d) a detailed description of any criminal convictions, including for each: the date of the conviction; dates of incarceration, probation, or parole; description of the offense; and any evidence of rehabilitation, including court documents, personal or professional references, completion of treatment, employment records, and other relevant information;

(e) demographic data pursuant to the Cannabis Regulation Act; and

(f) A copy of identification issued by a federal or state government, including name, date of birth, and picture and indicating the person is at least 21 years of age;

(3) for any renewal application, certifications that the applicant:

(a) attests to the following statement: Under penalty of perjury, I hereby declare that the information contained within and submitted with the application is complete, true and accurate. I understand that a misrepresentation of fact or violation of these rules may result in denial of the license application or revocation of a license issued;

(b) will adhere to the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, and division rules, including:

- (i)** testing requirements;
- (ii)** transport requirements;
- (iii)** security requirements;
- (iv)** quality assurance requirements; and
- (v)** the prohibition on any person holding an interest in one or more

cannabis testing laboratories from holding an interest in any other cannabis license other than a cannabis research laboratory;

(c) will adhere to applicable federal, state and local laws governing the protection of public health and the environment, including occupational health and safety, food safety, fire safety, environmental impacts, natural resource protections, air quality, solid and hazardous waste management, and wastewater discharge;

(d) has never been denied a license or had a license suspended or revoked by the division or any other state cannabis licensing authority or a detailed description of any administrative orders, civil judgements, denial or suspension of a cannabis license, revocation of a cannabis license, or sanctions for unlicensed cannabis activity by any state licensing authority, against the applicant, controlling person, or a business entity in which the applicant or controlling person was a controlling person within the three years immediately preceding the date of the application; and

(e) is not licensed at the same location under the Liquor Control Act;

(f) has obtained a current local jurisdiction business license, or will prior to operation of the cannabis establishment, and the applicant shall adhere to local zoning ordinance; and
(g) maintain on its licensed premise at all times, a complete and detailed diagram of the premises containing information required by 16.8.2.46 NMAC, which shall be made immediately available to the division upon request.

(4) for any initial application, and, unless a statement is included that no material changes exist, for any renewal application:

(a) a list of categories of testing for which licensure is sought; and
~~(b) legible and accurate premises diagram containing information required by 16.8.2.46 NMAC, in a portable document format (.pdf), and if requested by the division, digital photographs;~~
(~~e~~)(b) applicant's social and economic equity plan to encourage economic and social diversity in employment, including race, ethnicity, gender, age, and residential status of licensee, controlling persons and employees of applicant and whether the applicant, controlling persons, employees, or premises are located in an underserved rural community, including tribal, acequia, land grant-merced, federally designated opportunity zone, or other rural historic communities; and

(5) for any initial or renewal application, payment of any required fees as set forth in 16.8.11 NMAC.

B. Initial demonstration of capability: The division requires the submission of an initial demonstration of capability (IDC) for every test a cannabis testing laboratory intends to conduct, except tests for research and development purposes only. The IDC must identify a limit of quantitation that is equal to or lower than the action level for the specified test.

(1) An IDC is required whenever:

(a) an initial application is submitted, except that an applicant may instead submit evidence of prior completion of an IDC as a requirement of licensing under the Lynn and Erin Compassionate Use Act;

(b) the cannabis testing laboratory proposes to use a new analytical instrument to test for an analyte; or

(c) the cannabis testing laboratory proposes material changes to testing methods.

(2) Every IDC shall include the following elements:

(a) Demonstration of method calibration: The calibration range shall use at least five calibration points consisting of five different concentration levels of target compounds. The calibration range shall include a low calibration point equal to, or less than, the action level for each targeted compound. The cannabis testing laboratory shall provide the equation and the type of curve fit used for the calibration range, and the percent relative standard deviation or the goodness of fit. The percent relative standard deviation shall be less than twenty percent, or the goodness of fit (correlation coefficient) shall be 0.995 or better.

(b) Demonstration of method accuracy and precision: A cannabis testing laboratory shall supply the quantitation data for five positive control samples analyzed by its testing method utilizing median or mid-level calibration concentration. The cannabis testing laboratory shall identify and justify acceptance criteria and shall calculate and provide the calculated mean (average) result and the standard deviation. Any standard deviations greater than twenty percent shall be noted and explained.

(c) Demonstration of method detection limit: A cannabis testing laboratory shall calculate its method detection limit using a generally accepted method.

(d) Demonstration of low system background: A cannabis testing laboratory shall supply the analytical data of at least three negative control samples that do not contain any target analytes.

(e) Demonstration of analyte identification: A cannabis testing laboratory that uses, high performance liquid chromatography (HPLC) or gas chromatography with flame ionization detector or photoionization detector (GC-FID or GC-PID/FID) instrumentation shall supply analytical data where each targeted compound is analyzed as a single compound giving it its characteristic retention time. A cannabis testing laboratory that uses gas chromatography–mass spectrometry (GCMS), liquid chromatography–mass spectrometry (LCMS), or liquid chromatography–tandem mass spectrometry (LCMSMS) instrumentation shall supply analytical data with the characteristic mass spectrum of each targeted compound.

C. Continuing demonstration of capability: A cannabis testing laboratory shall submit a continuing demonstration of capability (CDC) for each test performed annually as part of the laboratory's application for renewal of licensure. A CDC may consist of:

(1) Evidence that the cannabis testing laboratory has the test within its current scope of accreditation to the current standards of ISO/IEC 17025, *Testing and Calibration Laboratories*;

(2) Evidence that each analyst performing the test has successfully completed, within the previous year, relevant proficiency testing administered by a provider accredited to the standards of ISO/IEC 17043, *Conformity Assessment—General Requirements for Proficiency Testing*; or

(3) The re-performance of the IDC.

D. Verification of information: The division may verify information contained in each application and accompanying documentation by:

(1) contacting the applicant or controlling person by telephone, mail, or electronic mail;

(2) conducting an on-site visit;

(3) requiring a face-to-face or virtual meeting and the production of additional documentation; or

(4) consulting with state or local governments.

E. Trade secrets: Any applicant submitting operating procedures and protocols to the division pursuant to the Lynn and Erin Compassionate Use Act, the Cannabis Regulation Act, or division rules, may claim such information as a trade secret by clearly identifying such information as “confidential trade secrets” on the document at the time of submission. Any claim of confidentiality by an applicant must be based on the applicant’s good faith belief that the information marked as confidential constitutes a trade secret as defined in the Uniform Trade Secrets Act, Sections 57-3A-1 to -7, NMSA 1978. In the event the division receives a request to inspect such documents, the division will notify the applicant or licensee, via the current email of record. If the division does not receive an injunction pursuant to the Uniform Trade Secrets Act within five days of the request to inspect, the division will make the documents marked confidential available for inspection as required pursuant to the Inspection of Public Records Act.

[16.8.2.44 NMAC – N, 01/13/2022; A/E, 01/13/2022]

16.8.2.46 TESTING LABORATORY PREMISES DIAGRAM:

A. Detailed diagram required: An applicant [~~submit to the division, with the application,~~] maintain on its licensed premise at all times, a complete and detailed diagram of the [~~proposed~~] premises. The diagram shall be used by the division to determine whether the premises meets the requirements of the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, and division rules. [~~The division shall deny an application if the premises does not qualify for licensure pursuant to federal, state, or local laws.~~]

B. Contents of diagram: The diagram shall show:

(1) the boundaries of the property and the proposed premises to be licensed;

(2) if applicable, the uses of any portion of the property not included in the premises;

(3) a brief statement or description of the principal activity to be conducted in each area on the premises;

(4) the dimensions of each area where testing of cannabis products will take place;

(5) the location and identity of equipment; and

(6) entrances and exits;

C. Format of diagram: The diagram shall:

(1) be drawn to scale;

(2) be rendered in black and white print; and

(3) contain no highlighting.

[16.8.2.46 NMAC – N, 01/13/2022; A/E, 01/13/2022]

This is an emergency amendment to 16.8.8 NMAC amending sections 9 and 10.

16.8.8.9 CANNABIS PLANT LIMIT TIER LEVELS:

A. Initial license designation: For the purpose of determining the number of mature cannabis plants a licensee may be allocated to cultivate, all cannabis producer and vertically integrated cannabis establishment licenses issued on or after August 15, 2021, will be designated by the division as a level 1, level 2, level 3, or level 4. Cannabis plant count level placement shall be based on the following factors:

(1) applicant's requested mature cannabis plant limit level;
(2) applicant's demonstration of a legal right to use the quantity of water needed for the level of mature cannabis plants cultivated based on the applicant's cannabis cultivation plan;

~~(3) applicant's facility diagram and canopy size;~~

~~(4)~~(3) if applicable, whether the applicant's reported number of mature cannabis plants harvested in the preceding six months was a minimum of eighty percent of applicant's authorized mature plant count limit;

~~(5)~~(4) if applicable, whether the applicant's total cannabis sales were a minimum of seventy-five percent of applicant's reported production of cannabis during the six months preceding applicant's request; and

~~(6)~~(5) applicant's social equity plan, including race, ethnicity, gender, age, and residential status of licensee, controlling persons and employees of applicant and whether the applicant, controlling persons, employees or the locations where the cannabis products are produced are located in an underserved rural community, including tribal, acequia, land grant-merced, federally designated opportunity zone, or other rural historic communities.

B. Designated mature cannabis plant levels:

(1) Level 1: ~~[201—1,000]~~ 401—2,000 mature cannabis plants;

(2) Level 2: ~~[1,001—3,000]~~ 2,001—6,000 mature cannabis plants;

(3) Level 3: ~~[3,001—6,000]~~ 6,001—12,000 mature cannabis plants; or

(4) Level 4: ~~[6,001—8,000]~~ 12,001—16,000 mature cannabis plants.

C. Incremental increase: A licensee may increase the number of mature cannabis plants, at the time of renewal and one other time per year. An authorized mature cannabis plant count increase shall only be approved in increments of ~~[500]~~ 1,000 mature cannabis plants.

D. Limit of incremental increase: A licensee may be allowed to increase its authorized mature cannabis plant count up to four increments at a time upon application and approval by the division.

E. Immature Plants: For purposes of calculating the maximum number of authorized mature cannabis plants, the germination, seedling, and vegetative stages are classified as immature cannabis plants and are excluded from a licensee's approved cannabis plant level.

F. Maximum cannabis plant count: In no event shall a licensee be permitted to grow more than ~~[10,000]~~ 20,000 mature cannabis plants at one time.

[16.8.8.9 NMAC - N, 08/24/2021; A/E, 01/13/2022]

16.8.8.10 PLANT INCREASE REQUEST:

A. A licensee may request an increase of the number of mature plants licensed at the time of renewal and at one other time per year. To be considered for approval by the division, the licensee shall provide, in addition to required fees set forth in 16.8.11 NMAC, the following information to demonstrate the licensee's capacity for a mature cannabis plant count increase, licensee's compliance with the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, and division rules:

(1) a current inventory of mature cannabis plants and harvested cannabis;

(2) applicant's demonstration of a legal right to use the quantity of water needed for the level of mature plants to be cultivated based on the applicant's cultivation plan;

~~(3) applicant's facility diagram and canopy size;~~

~~(4)~~(3) applicant's reported number of plants harvested in the preceding three months;

~~(5)~~(4) applicant's medical cannabis and commercial cannabis sales in the preceding three months;

~~(6)~~(5) applicant's total cannabis sales; and

~~(7)~~(6) progress on implementation of applicant's social equity plan, including race, ethnicity, gender, age, and residential status of licensee, controlling persons and employees of applicant and whether the applicant, controlling persons, employees or the locations where the cannabis products are produced are located in an underserved rural community, including tribal, acequia, land grant-merced, or other rural historic communities.

B. The division shall make a determination to approve or deny a licensee's request to increase mature cannabis plant count based on the information provided and the following factors:

(1) the licensee has met the required minimum sale of medical cannabis each month for the last 3 months it has operated;

(2) the licensee has sold at least eighty percent of its cannabis or cannabis products each month for the last 3 months it has operated;

(3) the existence of any pending or final enforcement action taken by the division against the licensee;

(4) whether there is a shortage of cannabis in the medical cannabis program during the most recent 6-month period, including throughout the state and in underserved geographical regions;

(5) whether the licensee's cultivation plan to increase mature cannabis plants meets the requirements for licensure, including access to water and water usage; and

(6) the completeness of information and data provided to the division.

C. Ground for Denial: The division may deny a request for additional mature cannabis plants based on the information provided or for violating the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules, including the licensee exceeding its authorized mature cannabis plant count during the prior three-month period.

[16.8.8.10 NMAC - N, 08/24/2021; A/E, 01/13/2022]

This is an emergency amendment to 16.8.11 NMAC amending section 11.

16.8.11.11 ANNUAL PER PLANT FEE:

A. Commercial cannabis plants: Except for cannabis producer microbusinesses and integrated cannabis microbusinesses, a licensee cultivating commercial cannabis plants shall be assessed an additional annual fee per mature cannabis plant at the time of licensing, incremental increase as set forth in 16.8.8.10 NMAC, and licensure renewal as set forth in 16.8.2.17 NMAC. Plant fee shall be assessed based on the plant limit license designation as set forth in subparagraph A in 16.8.8.9 NMAC, as follows:

- (1) Level 1: ~~[\$10.00]~~ \$5.00 per mature cannabis plant;
- (2) Level 2: ~~[\$10.00]~~ \$5.00 per mature cannabis plant;
- (3) Level 3: ~~[\$10.00]~~ \$5.00 per mature cannabis plant; and
- (4) Level 4 and above: ~~[\$10.00]~~ \$5.00 per mature cannabis plant.

B. Medical cannabis plants: Except for cannabis producer microbusinesses and integrated cannabis microbusinesses, a licensee cultivating solely medical cannabis plants shall be assessed an additional annual fee per mature cannabis plant at the time of licensing, incremental increase as set forth in 16.8.8.10 NMAC, and licensure renewal as set forth in 16.8.2.17 NMAC. Plant fees shall be assessed based on the plant limit license designation as set forth in subparagraph A in 16.8.8.9 NMAC, as follows:

- (1) Level 1: ~~[\$5.00]~~ \$2.50 per mature cannabis plant;
- (2) Level 2: ~~[\$5.00]~~ \$2.50 per mature cannabis plant;
- (3) Level 3: ~~[\$5.00]~~ \$2.50 per mature cannabis plant; and
- (4) Level 4 and above: ~~[\$5.00]~~ \$2.50 per mature cannabis plant.

[16.8.11.11 NMAC - N, 08/24/2021; A/E 01/13/2022]



Home » FAQs

How do I obtain a business license?
Otero County does not require business licenses; however, the County does require that businesses comply with State license requirements.

▼ **County Manager**

[Show All Answers](#)

1. **Where and when does the Board of County Commissioners meet?**
2. **Where can I get a copy of the meeting agendas?**
3. **How do I obtain a business license?**
4. **How can I address my concerns to the Board?**
5. **Where can I find phone numbers of County Departments?**
6. **What population information is available on Otero County?**

Search

All categories

Categories

- All Categories
- Assessor
- Community Custody Program
- County Manager
- County Treasurer
- Disposition Program
- Solid Waste
- Work Release Program



Forms

[Otero County Planning Commission](#)

[Subdivision Regulations \(PDF\)](#)

[Zoning](#)

[Home](#) > [Government](#) > [Departments](#) > [Administration](#) > [Subdivision Planning](#) > [Zoning](#)

Zoning

Otero County has no zoning or licensing requirements. However, restrictive covenants, deed restrictions, county ordinances, or the regulations of other government entities may apply. Certain areas of the county may fall under review by other governing bodies in the case of ETJ (extra-territorial jurisdiction) but currently there is not zoning in Otero County.

Building Permits & Inspections

For Building Permits or Inspections please contact:

State of New Mexico Regulation and Licensing Department
Construction Industry Division (CID)
Manufactured Housing Division (MHD)
505 South Main Street, Suite 118
Loretto Town Center
Las Cruces, New Mexico 88001
Phone: 575-524-6320

Licensing & Exam Services

For Licensing or Exam Services please call 877-663-9267 or go to the PSI Exams website:

Environmental Concerns

feature codes and attributes in our current Feature Code Library with their schemas and full descriptions in case they need to be converted for use in a non-Trimble surveying device.

- GIS Boiler Plate
- Feature Code Library
- Codes and Attributes Document

Title 16 Dataset and Planning

The City of Hobbs' GIS division works with the Planning department to help developers get the data they need. As part of the Subdivision section of the City of Hobbs' Municipal code (known as Title 16), the GIS division provides basic utility location data for use on plan sets. While this data is meant to be used within design plan sets, this data is available to anyone for download. If you are using data or maps provided by the City of Hobbs, please see our Data Disclaimer [link to data disclaimer pdf] prior to downloading or access the maps or data.

Some things to note about the Title 16 dataset is some critical, proprietary, or internal use information has been removed for public safety. Additionally the Title 16 dataset is updated at the beginning of each Quarter. If the data you are using is not from the same quarter that you downloaded it, the data should be considered out of date. If you have any questions please feel free to contact the City of Hobbs' GIS division.

Final note, the City of Hobbs does not have Zoning and the Title 16 dataset does not contain a Zoning Map or Zoning Data. Please contact the Planning Department for more information about the City of Hobbs and Zoning.

- Link to Title 16 KML dataset zip
- Link to Title 16 Shape File dataset zip

Contact and Work Requests:

The City of Hobbs' GIS division is the primary point of contact for Data or Access to our real-time corrections base station. You can reach us by calling (575)-397-9232 or by reaching out to us using our work/data requests form (powered by Survey123).

- Link to Requests Survey

Other GIS, Addressing, and Data Partners/Resources

- Lea County
- Lea County GIS
- Lea County Rural Addressing
- Lea County Assessor
- Lea County Communication Authority (LCCA)
- Earth Data Analysis Center / State e911 Program

Accessibility



City of Alamogordo

OFFICE OF THE CITY CLERK

1376 E. NINTH STREET • ALAMOGORDO, NEW MEXICO 88310-5838 • (575) 439-4100 FAX (575) 439-4396

July 24, 2023

Dear Alamogordo Business Owners,

Thank you for your continued patience while the City of Alamogordo goes through the conversion of the new business registration system. This is an amended letter to the letter that was sent out on November 7, 2022, and May 26, 2023. Please see the changes in bold.

The City of Alamogordo is in the process of converting to a new business registration program and will take a few months to complete the process. Therefore, the \$35 business registration fee due by January 31, 2023, will be waived, and your business registration will be automatically extended. However, a new business registration certificate will not be issued. If the state requires you to have a business registration certificate, we can issue a temporary certificate upon request after December 1, 2022. You may also use this letter as proof of the business registration extension.

Per our ordinance amendment of Chapter 17, all business registration renewals will no longer have the due date of January 31st of each year, the renewal dates will be staggered. Therefore, once the program conversion is in operation, **you will receive a notification of how to access the new system. We anticipate the conversion will be completed by October 31, 2023.** Please assist us in getting this notification to you by emailing us, calling us, or stopping by with your current email address, and including your business name and business location. The email address where you can send this information is cityclerk@ci.alamogordo.nm.us or call our office at (575) 439-4100 option 6.

Thank you for your continued business and your patience while we go through this conversion. If you have any questions, you may contact me at rhughs@ci.alamogordo.nm.us or by calling me at (575) 439-4100 option 6.

Sincerely,

Rachel Hughs, CMC
City Clerk

From: wordpress-support@rtsolutions.com
To: [Complaints, CCD, RLD](#)
Subject: [EXTERNAL] Thank you for the RLD Cannabis Consumption Division - Report a Violation Form!
Date: Tuesday, October 18, 2022 10:08:28 PM

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Complainant Information:

Complainant Name:

John Doe

Complainant Phone Number:

(575) 777-7777

Complainant Email:

cmfccdreport@gmail.com

I am a (check all that apply):

- Other:

Other:

I would like to be anonymous

Facility Information:

Type of Facility (check the applicable facility type)

- Production Facility

Facility Name:

CMF Productions

Facility Address:

2001 E 2nd St
Clovis, New Mexico 88101
United States
[Map It](#)

Date and Time of Alleged Incident(s)/Violation(s):

Since they got their license

Was this an isolated incident(s)/violation(s) or a continuing activity?

Continuing

Have any other agencies been notified? If so, which ones (e.g. OSHA, DPS, Worker's Comp)?

None

Are you aware of any evidence of the incident(s)/violation(s), or do you have evidence of the incident(s)/violation(s)? If yes, describe the evidence and attached copies of evidence you have?

I'm sure checking their BioTrack and going through paperwork it will bring to light everything.

Also the bank should have copies of the receipts of checks that were deposited.

I have photos of the other strains and them renaming them.

Was the incident(s)/violation(s) documented anywhere? If so, how was it documented?

I have screenshots. You can contact through e mail

Has there been any damage to people, business, and equipment? If so, explain.

Anne Marie and AJ also can speak on things as well as Cruz and Jared on how they were over promised things and just left the company empty handed.

How has the incident(s)/violation(s) impacted you or others?

Over promising things to get to work for them.

Who else might have knowledge of this incident(s)/violation(s)? List their names and contact information, if applicable.

They won't admit it due to them running the operation
Casey Chavez
Chris Finch

I would like to remain anonymous for my safety

Briefly describe the incident(s)/violation(s) (include all details, such as observation, date, time, location, names of employees present, and injuries or incidents, etc.). Please add an additional page if needed.

Warehouse registered as 2001 E Second St, but also have the building next door but is separated by a fence(2002 E Second St). The building isn't registered as the grow facility, but having an indoor cannabis grow.

Throughout my employment I was given the impression that, our cannabis was our grown strains and found out they were purchasing the cannabis from outside sources that aren't grown in New Mexico. It came from Oklahoma and Colorado.

Used the software BioTrack that they have harvested cured the cannabis although it was purchased from outside sources.

CMF Productions would tell me the strains we had and would sell them under false strains to clients (Earl & Toms Clovis, NM, Factory Pipes & Direct Clovis, NM, Enchanted Stains Clovis, NM, Smoking Mike's Fort Sumner, NM, Puff on 66, Tucumcari, NM, Score 420 Albuquerque, NM, Smokin Crow Mora, NM, BudBoard Carlsbad, NM, Z BudBoard Ruidoso, NM, Enchantment Grow Co, Hobbs, NM, Sangre De Cristo Taos, NM)

No accounting to keep track of income and where the money went towards.

Deposit checks from Tom & Earl's for cannabis purchases into 'The Management12' at Washington Federal Bank in Clovis, NM. Never said CMF Productions on them.

Chris Charles Finch opened a Dispensary(Bud Brothers LLC Hobbs, NM) , funneling the out of state cannabis to his company, while not paying for it. Chris Charles Finch also is opening a dispensary in Clovis, NM The Royal Leaf LTD, CO.

No salaries paid to employees.

CMF Productions in the location next door 2002 E Second St, did a grow there when I first started in May the grow at flowering came through with mites and still proceeded to go through with curing and harvesting when you could clearly see they were all mite infested. They did not sell the cannabis but did jar it and preserved it in mason jars. Didn't track in BioTrack as a loss.



NMRDL

NEW MEXICO
REGULATION &
LICENSING DEPARTMENT

STATE OF NEW MEXICO
MICHELLE LUJAN GRISHAM,
GOVERNOR
Linda M. Trujillo, Superintendent

On 10/18/2022, I received a complaint via complaints e-mail. The complaint was submitted by an anonymous person. This complaint was for the Manufacturing facility CMF productions located in Clovis New Mexico. The complaint contained many accusations of non-compliance issues and criminal activity. The allegations included bringing cannabis flower in from out of state specifically Oklahoma and Colorado. Reporting party stated in the complaint that it was an ongoing issue.

On 02/02/2023, I received a complaint from a manufacturing facility in Albuquerque (Stash House) receiving distillate oil from CMF Productions. Upon receiving this information, we proceeded to plan for an inspection and a follow-up to the complaint. Compliance Officer Michelle Alatorre and I proceeded to inspect Stash House on 02/09/2023 in Albuquerque. Upon conducting our inspection, we did locate distillate oil in their safe that did not have appropriate labeling on the jars of oil. At this time, we asked the general manager (Christopher Minor) of stash House where they obtained the oil. Mr. minor stated that they get their oil from CMF Productions. After the inspection was done, Compliance Officer Santiago Silva ran a report through Bio-Track to confirm that CMF Productions was licensed to Manufacture distillate oil. Mr. Silva informed me that CMF Productions did not have a license to manufacture the oil. Upon receiving this information, I started to make plans to conduct an inspection of CMF Productions in Clovis.

On 02/23/2023, Compliance Officer Santiago Silva and I proceeded to CMF Productions to inspect the facility. We arrived at approximately 0930 hrs. at the CMF Productions facility located at 2001 E. 2nd St. Clovis New Mexico. Upon arrival, Santiago and I exited our vehicle and walked up to the front door of the facility. Before arriving at the front door, I did observe a U Haul truck parked in front of the facility. I proceeded to knock on the door several times until a male subject later identified as Travis Finch appeared at the doorway. Santiago and I identified ourselves and our intentions to Mr. Finch at the doorway. Mr. Finch invited us into the facility's front office. I did observe that Mr. Finch was wrapped in a blanket and barefoot. I also observed approximately three jars of what appeared to be distillate oil set on top of the office desk. I asked Travis what the oil was set on the desk. Travis said he wasn't sure, and the owner could probably answer that question. I then asked why a U Haul was parked out in front of the



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facility. Travis stated he had just moved to Clovis from Albuquerque recently. In Addition, I did observe many cardboard boxes neatly stacked up against a wall in the office.

At this time, I asked Travis if he could show us around the facility so that we could conduct our inspection and follow up on a complaint. Travis stood up from his chair and knocked on the roof of the office several times to get someone's attention from the living space on the second floor of the facility. Travis waited a few minutes for a response, but no one responded to his knocks on the ceiling. I then asked Travis if he could call the owner (Casey Chavez) so we could inform him that we were currently at his business ready to conduct an inspection. Travis picked up his phone and appeared to have attempted to call Casey. Travis said he was not able to get ahold of Casey. At this time, I asked Travis if there was anyone that could show us around the facility. Travis said Casey would be the only one that would be able to show us around. At this point, I told Travis that we would be outside in our vehicle attempting to reach Casey by phone. Santiago and I went outside to our state-marked vehicle and started to call Casey's phone. We were unable to reach him by phone being that the call would immediately go to voice mail. While we were attempting to reach Casey by phone, I saw Travis exit the facility barefoot. He made sure the door was locked behind him by pulling the door several times. Travis then walked to his vehicle which was parked in front of the facility. Travis entered his vehicle and started driving away from the facility. Upon seeing this I exited our state vehicle and motioned Travis to stop. Travis stopped the vehicle where I was standing in the parking lot. I asked Travis if he was coming back or if someone was on their way to meet us at the facility for the inspection. Travis said that he was headed out to visit with his mother and did not know when he would return. I said ok and Travis drove away in his dark-colored SUV out of the parking lot onto the street.

I walked back to our vehicle to talk with Santiago about what we would do next about the issue. It was decided that I would call Sgt. David Sandoval who works for Clovis Police Department. I informed Sgt. Sandoval about a formal complaint that was filed with serious allegations against the CMF Productions management. After informing him of the complaint I informed Sgt. Sandoval of what occurred on this date. I also told him what I observed while in the front office of the facility. Sgt. Sandoval advised that he believed he had enough information to attempt to obtain a search warrant for the facility. While I was talking to Sgt. Sandoval outside of the CMF Productions facility, Santiago received a phone call from Casey. Santiago told me that Casey said that he was out of town and would not be able to show us his facility and was wanting us to come back next week to get the inspection done. Santiago asked if someone else was



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available for the inspection. Casey said nobody was available. This was the extent of the conversation between Santiago and Casey on this date.

Shortly after Sgt. Sandoval requested me and Santiago to meet with him at his office located at the Clovis Police Department. On arrival, we communicated our observations at CMF Productions and provided documentation relevant to the case. While Santiago and I were at Sgt Sandoval's office he told us that there was chatter on the police radio of several subjects at CMF Productions throwing cannabis over a fence into a truck. It was later confirmed that these individuals were the owners of CMF Productions. After meeting with Sgt. Sandoval in his office, we went back to CMF Productions to wait for the notification a search warrant was approved. A short time later Sgt. Sandoval called me and said they would be headed to CMF Productions to execute the search warrant because it was approved. About 20 minutes later search warrant was executed by Clovis Police Department while we sat in the parking lot in our vehicle. A few minutes later Sgt. Sandoval requested our assistance to identify different forms of cannabis that were in the facility during the search. We complied with the request and assisted with the identification of cannabis products. Santiago and I took many photographs of cannabis products that were out-of-state products. We also saw many jars containing extracts that had no Bio Track Labels and seemed to be just thrown in different areas of the office.

Once the search was complete, we went to the Clovis Police Department to debrief. Once De-Brief was complete, we took no further action on this date.



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CMF Productions Observation Report

On February 23rd of 2023, William Fresquez (CCD Investigator) and myself (Compliance Officer) followed through on a complaint that named CMF Productions as a supplier of illegal cannabis products. William and I were assigned by the Cannabis Control Division's (CCD) Compliance Manager, Nick Mourning, to conduct a general inspection at CMF Productions located at 2001 E 2nd St Clovis, NM 88101 in order to determine if these allegations were accurate or not.

On February 23rd of 2023, William and I arrived at CMF Production's premise around 9:30a.m. William and I were greeted by a man named Travis, who claimed to be the brother of one of the owners. Travis stated that he was just watching the place until the owners returned to the premise, however, Travis had no idea where the owners were located. Travis stated that he did not have the required access to show us around the facility and attempted to contact the owner's numerous times via phone, to which he was unsuccessful. Also, while we were waiting for a response from the owners, William and I noticed jars of unlabeled and unmarked distillate oil, as well as some unlabeled and unmarked infused prerolls on the office desk. This is a red flag due to the context of the complaint. William asked Travis about these products to which Travis stated that it was unfinished product that the owners were testing and said the prerolls were for the owner's girlfriend.

After 10 minutes or so, it became clear that the owners were not going to respond, and that William and I would not be able to conduct the inspection. While we were there, I made multiple attempts to call the owners as well, to which I had no success. William and I decided to go back to our vehicle to figure out the next steps that should be taken. William and I decided to call Nick to brief him on the situation and while we were on the phone, we noticed that Travis was locking up the facility and heading out to go somewhere. Before Travis could leave, William exited the vehicle to ask Travis if he would be back at any point that day, to which Travis stated that he was going to visit his mother. Travis left in a rush with no shoes or socks on. At this point, William and I were instructed by Nick to stay parked close to CMF Productions premise so that we could keep an eye on it.

While William and I were waiting in the vehicle, Sgt. Sandoval and his partner drove up to our vehicle, and asked us about our findings. William explained the concern of the complaint that CCD received and mentioned to Sgt. Sandoval that we observed jars of distillate oil and infused prerolls on the office desk. After this, Sgt. Sandoval left back to the police station waiting for CCDs upper management to decide if they wanted to proceed with a search warrant or not. While waiting for upper managements response, I received a phone call from Casey Chavez, one of the owners of CMF Productions. Casey inquired about the reason for our site visit and mentioned that him and his partner were out of town in Las Vegas, NM to attend an EXPO event. Casey also mentioned that they would be traveling to Las Vegas, NV after the EXPO event. I inquired about having any other staff that could possibly show us around, to which Casey said they had no one available. Casey stated that Chris Finch, the other owner of

CMF Productions, would contact me to explain their manufacturing processes. I never received that call from Chris.

William and I finally received confirmation from Nick Mourning to proceed with the search warrant, as long as Clovis PD felt confident with the information that we provided to them. Clovis PD felt confident in getting a search warrant, so Sgt. Sandoval assigned a couple of his officers to monitor CMF Productions premise while William and I went back to the police station with Sgt. Sandoval. William and I collaborated with Sgt. Sandoval to write up the search warrant. William explained the basis of the complaint in greater detail so the search warrant could be as accurate as possible. William and I both discussed our observations at CMF Productions, and why we believed CMF Productions had illegal cannabis products in their facility. While we were explaining all of this, Sgt. Sandoval received a call over his radio about a few people throwing cannabis flower over the facility fence into a Toyota Tundra. Sgt. Sandoval immediately ordered his officers to stop the activity from happening and to detain the person(s) involved. The people identified doing this were Casey Chavez, Chris Finch, and a guy named Mikey. This was a surprised to us because the owners had told me earlier that they were in Las Vegas, NM. Sgt. Sandoval finished typing up the search warrant, and we traveled with him to meet with the Judge.

After the Judge signed off on the search warrant, Sgt. Sandoval took William and I back to our vehicle and told us to meet him and his team at CMF Productions premises. Once William and I arrived at CMF Productions, there were already multiple officers there to assist with the search warrant. Prior to following through with the search warrant, Sgt. Sandoval requested mine and William's assistance after they deemed the property secure. Clovis police proceeded to execute the search warrant and they deemed the property secure and safe. At this point, William and I followed Sgt. Sandoval into the facility. Immediately upon entering, the entire office room (the one William and I were at earlier that morning) was a mess. Everything appeared to be moved around and scattered everywhere. Also, we observed cannabis flower located inside of Lowe's moving boxes. William and I proceeded to look through the main office room, and found a lot more distillate oil in jars located in a closet room. William and I spotted more illicit products in that closet room such as wax cartridges and cannabis edibles. There were more cartridges, however, this specific brand of cartridges seemed to be a delta 8/10 product which the CCD does not regulate. All the items that William and I believed to be out-of-state products were untagged and unlabeled. None of these products had any type of BioTrack ID on them, or any type of tracking number. Also, the way these products were being stored led William and I to believe that these products are from out-of-state. Another interesting find that William and I discovered while searching through the office room was a ledger that listed a bunch of narcotics such as MDMA, DMT, Ketamine, and Pain Killers. None of those narcotics were found on the premise, but a very concerning find nonetheless.

William and I spent most of our time in the main office room and closet room, but we did walk-through the entire main building. When William and I went to the second floor of the main building, which seemed to be a living quarters, we observed more air-sealed cannabis flower that was also untagged and unlabeled. There was also a loaded magazine in the living-space which

was concerning for William and myself. There was more space in the compound such as the yard and another building, but the Licensees showed back-up to their premises after being detained and requested our attention. This prevented William and I from walking through the yard and other building that was on the premise. William and I tended to the licensees, which they requested. Casey and Chris were visibly upset about the whole situation, and started to get into a back and forth with myself and William. During this conversation, which can be viewed on the officers bodycam who was present, you can hear me ask the licensees about the cartridges that had an out-of-state source, to which Chris responded “everyone is doing it.” I told Chris that crossing state lines with cannabis products was illegal, and should not be sold in the state of New Mexico. Chris acknowledged that bringing out-of-state product was not allowed and that is where that conversation ended. William told the licensees that they are entitled to their rights to obtain a legal defense, and that he will send them a copy of the complaint report. At this point, Clovis PD appeared finished with their investigation so William and I followed the officers out of the property.

END OF OBSERVATION



CANNABIS CLEAN-UP

REGULATION AND LICENSING INVESTIGATING DISPENSARY COMPLIANCE

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Regulation and Licensing Department flushing out on phoney dispensaries

Updated: 9:58 AM MDT Jul 19, 2023

Infinite Scroll Enabled



Julian Paras

Reporter

In a February Target 7 Investigation, an Action 7 News producer went to Paradise Distro on Menaul Avenue NE, and was able to buy cannabis labeled for sale only in California.

Afterward, state regulators made a similar purchase and have now revoked the business license.

"We're putting a lot of effort, a lot of our resources, towards doing compliance," Superintendent Linda Trujillo, with the New Mexico Regulation and Licensing Department, said.

Trujillo warns cannabis businesses about breaking the law.

Officials at the Cannabis Control Division say it's an important safety measure.

"We don't know the THC content, we don't know whether it's been tested for pesticides, we don't know if it's been tested for microbeols," Robert Sachs with the CCD said.

Pat Davis, who is chairman of the governor's marijuana legalization group, agrees dispensaries need to understand what they are selling.

Recommended



Lawsuit claims sexual assault by Albuquerque teacher

"If you just start ingesting stuff and you don't know what's in it can have serious have serious health implications, and that's just the beginning," Davis said.

KOAT spoke with Canvas Dispensary about out-of-state products and said there's a huge problem with it.

"This actually breaks federal law going across state lines, and that's what regulations is trying to keep us from breaking," corporate manager Rodrigo Ramirez with Canvas Organics said.

Compliance is important in order to stay in business, but incidents like Paradise Distro shutting down are hard to hear about.

"To see somebody doing that, it just kind of breaks your heart," Ramirez said.

The Regulation and Licensing Department understands that, too, and wants to give store owners the opportunity to make up for it if they can. But the department also has to protect customers.

"It's really important that the public has safe access to safe product," Trujillo said.

TOP PICKS



Labels

Sort by: Best selling ▼

37 products

Filter:

Availability ▼

- In stock (35)
- Out of stock (2)

Price ▼

Color ▼

Brand ▼

Product type ▼

Filter and sort Filter

37 products



California Compliance Strain Labels
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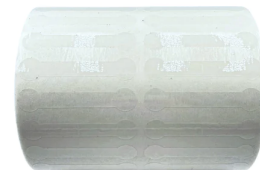
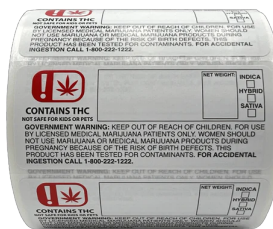
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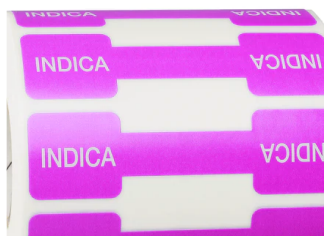
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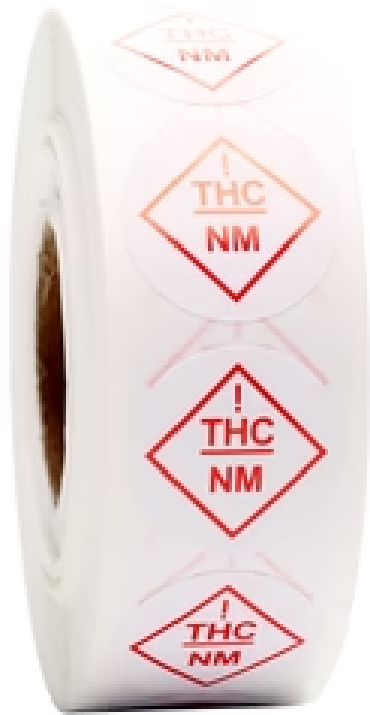
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