

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.

16.8.2.30 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 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 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~~

~~I-cap 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]