

This is an amendment to 16.8.2 NMAC, Sections 8, 22, 23, 30, 31, 36, 37, 42, 44, 45, 50, 51, 57, and 58, effective 05/07/2024.

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 21 years of age. All employees of a commercial cannabis establishment must be at least 21 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.

H. Computation of time: The word “days” as used in this rule means calendar days unless otherwise noted.

I. 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.

J. Inventory and sales equipment: The division shall require licensees to utilize division approved track and trace equipment, software, and services.

K. Limitation of licensed premises: Licensees shall conduct cannabis establishment operations solely on licensed premises approved by the division.

L. Multiple licensee premises: Multiple licensees may, upon determination by the division, occupy a single licensed premises, provided each is individually licensed by the division.

M. 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.

N. 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.

O. Online application: Online application: All applications for initial licensure, amended licensure, additional premises, and renewal must be made available on the division website. If applicable, applicants shall first register for a user account.

P. 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.

Q. 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. All licensing or renewal fees are non-refundable and must be paid for each new application.

~~**R. 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.~~

~~**S.] R. 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.~~

~~**T.] S. 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.~~

~~**U.] T. 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.~~

~~**V.] U. 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.~~

~~**W.] V. 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.

[X.] W. 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 division notifying the licensee that a renewal application is available. 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.

[Y.] 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. The division shall deny any request for a waiver related to a legal right to water pursuant to Paragraphs (3) and (4) of Subsection B of Section 26-2C-7 NMSA 1978.~~

~~(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.~~

~~Z.]~~ **X. 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.

~~AA.]~~ **Y. 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, 08/22/2021; A/E, 12/06/2021; A, 03/22/2022; A, 05/07/2024]

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; ~~and~~

(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) proof of compliance with local laws by submitting either:

~~(a) a copy of a current business license issued by the local jurisdiction in which the proposed premise is located, which may include zoning approval and a fire inspection report;~~

~~(b) evidence that the local jurisdiction in which the proposed premise is located does not issue business licenses; or~~

~~(c) evidence that the local jurisdiction in which the proposed premise is located does not issue business licenses prior to the issuance of a cannabis license.~~

~~(4) proof the applicant is properly registered with the New Mexico taxation and revenue department (TRD) for payment of gross receipts tax;~~

~~(3)]~~ (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.

~~(4)~~ (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;

~~(5)~~ (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;

~~(6)~~ (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;

~~(7)~~ (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 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;

~~(8)~~ (11) 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 12 month period;

~~(9)~~ (12) 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;

~~(10)~~ (13) 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;

~~(11)~~ (14) 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;

~~(12)~~ (15) 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;

~~(13)~~ (16) 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;

~~(14)~~ (17) 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;

~~(15)~~ (18) 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;

~~[(16)]~~ **(19)** 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)]~~ **(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;

~~[(18)]~~ **(21)** certification the applicant will maintain at all times a legible and accurate diagram 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;

~~[(19)]~~ **(22)** 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)]~~ **(23)** 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, 1/13/2022; A, 03/22/2022; A, 05/07/2024]

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 of the premises;~~
~~_____~~ **(2) (1)** change of licensee’s legal or business name;
~~(3)~~ **(2)** change in water source, or licensee’s water and energy conservation plan, including, the reuse of water and disposal of effluent;
~~(4)~~ **(3)** increase in plant count beyond which licensee is currently licensed to produce;
~~_____~~ **(4)** decrease in plant count which licensee is currently licensed to produce;
(5) addition or elimination of a controlling person;
~~(6) material or substantial change to a licensee’s security system;] or~~
~~(7)~~ **(6)** 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, including the sale of property used for the cannabis establishment, or the purchase of additional property for the use of the cannabis establishment;
~~_____~~ **(2)** an addition or removal of licensed activities taking place on a single licensed premise; or
~~(2)~~ **(3)** a change in the licensee’s access to the water source submitted with an application for initial, amended, or renewal licensure or a ten 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, 08/22/2021; A/E, 12/06/2021; A, 05/07/2024]

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); and
 - (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) proof of compliance with local laws by submitting either:~~
 - ~~(a) a copy of a current business license issued by the local jurisdiction in which the proposed premise is located, which may include zoning approval and a fire inspection report;~~
 - ~~(b) evidence that the local jurisdiction in which the proposed premise is located does not issue business licenses; or~~
 - ~~(c) evidence that the local jurisdiction in which the proposed premise is located does not issue business licenses prior to the issuance of a cannabis license.~~
 - ~~(4) proof the applicant is properly registered with the New Mexico taxation and revenue department (TRD) for payment of gross receipts tax;~~
 - ~~(3) (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;
 - ~~(4) (6) 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) (7) 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) (8) 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) 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;~~
 - ~~(7) (10) 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;~~

~~[(8)]~~ **(11)** 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;

~~[(9)]~~ **(12)** 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;

~~[(40)]~~ **(13)** certification the applicant will adhere to manufacturing requirements pursuant to the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules;

~~[(44)]~~ **(14)** 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;

~~[(42)]~~ **(15)** certification the applicant will adhere to security requirements pursuant to the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules;

~~[(43)]~~ **(16)** 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;

~~[(44)]~~ **(17)** 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;

~~[(45)]~~ **(18)** 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;

~~[(46)]~~ **(19)** certification the applicant is not licensed under the Liquor Control Act.

~~[(47)]~~ **(20)** 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;

~~[(48)]~~ **(21)** 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;

~~[(49)]~~ **(22)** 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)]~~ **(23)** 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;

~~[(24)]~~ **(24)** 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)]~~ **(25)** 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 10 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; A, 3/22/2022; A, 05/07/2024]

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, 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)~~ (1) change of licensee’s legal or business name;
- ~~(3)~~ (2) change or modification in extraction type(s) or equipment;
- ~~(4)~~ (3) material or substantial change in water source;
- ~~(5)~~ (4) addition or elimination of a controlling person;
- ~~(6) material or substantial change to a licensee’s security system;] or~~
- ~~(7)~~ (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 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, including the sale of property used for the cannabis establishment, or the purchase of additional property for the use of the cannabis establishment;
- ~~_____ (2) an addition or removal of licensed activities taking place on a single licensed premise; or~~
- ~~(2)~~ (3) 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 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.]~~

[16.8.2.31 NMAC – N/E, 09/08/2021; N, 12/28/2021; A, 05/07/2024]

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; and
- (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) proof of compliance with local laws by submitting either:~~

(a) a copy of a current business license issued by the local jurisdiction in which the proposed premise is located, which may include zoning approval and a fire inspection report;

(b) evidence that the local jurisdiction in which the proposed premise is located does not issue business licenses; or

(c) evidence that the local jurisdiction in which the proposed premise is located does not issue business licenses prior to the issuance of a cannabis license.

(4) proof the applicant is properly registered with the New Mexico taxation and revenue department (TRD) for payment of gross receipts tax;

~~(3)~~ (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;

~~(4)~~ (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;

~~(5)~~ (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) 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;

~~(6)~~ (9) certification the applicant will adhere to retail requirements pursuant to the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules;

~~(7)~~ (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;

~~(8)~~ (11) certification the applicant will adhere to security requirements pursuant to the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules;

~~(9)~~ (12) 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;

~~(10)~~ (13) 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;

~~(11)~~ (14) 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;

~~(12)~~ (15) certification the applicant is not licensed under the Liquor Control Act;

~~(13)~~ (16) 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)~~ (17) certification the applicant will maintain at all times a 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;

~~(15)~~ (18) 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)~~ (19) 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)~~ (20) 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)~~ (21) 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, 01/13/2022; A, 03/22/2022; A, 05/07/2024]

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) (1) change of licensee’s legal or business name;~~
~~[(3) (2) addition or elimination of a controlling person;~~
~~[(4) material or substantial change to a licensee’s security system;] or~~
~~[(5) (3) 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; or
- ~~_____ (2) an addition or removal of licensed activities taking place on a single licensed premise.~~
~~[(2) change to a licensee’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; A, 05/07/2024]

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; and
- (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) proof of compliance with local laws by submitting either:~~
~~_____ (a) a copy of a current business license issued by the local jurisdiction in which the~~
~~proposed premise is located, which may include zoning approval and a fire inspection report;~~
~~_____ (b) evidence that the local jurisdiction in which the proposed premise is located~~
~~does not issue business licenses; or~~
~~_____ (c) evidence that the local jurisdiction in which the proposed premise is located~~
~~does not issue business licenses prior to the issuance of a cannabis license.~~
~~_____ (4) proof the applicant is properly registered with the New Mexico taxation and revenue~~
~~department (TRD) for payment of gross receipts tax;~~
~~_____ (5) proof of vehicle registration and vehicle insurance for each vehicle to be used for courier~~

activities:

~~(6)~~ **(6)** a copy of the delivery plan including, but not limited to, how cannabis and cannabis products will be picked up and delivered ensuring proper chain of custody throughout, how security will be maintained throughout delivery, and how payment will be accepted;

~~(7)~~ **(7)** criminal history screening documents as set forth in 16.8.2.9 NMAC and the Cannabis Regulation Act;

~~(8)~~ **(8)** 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;

~~(9)~~ **(9)** 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;

~~(10)~~ **(10)** certification the applicant will adhere to courier requirements pursuant to the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules;

~~(11)~~ **(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;

~~(12)~~ **(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;

~~(13)~~ **(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;

~~(14)~~ **(14)** 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;

~~(15)~~ **(15)** certification the applicant is not licensed under the Liquor Control Act;

~~(16)~~ **(16)** 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

~~(17)~~ **(17)** 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, A, 05/07/2024]

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) proof of compliance with local laws by submitting either:

(a) a copy of a current business license issued by the local jurisdiction in which the proposed premise is located, which may include zoning approval and a fire inspection report;

(b) evidence that the local jurisdiction in which the proposed premise is located does not issue business licenses; or

(c) evidence that the local jurisdiction in which the proposed premise is located does not issue business licenses prior to the issuance of a cannabis license.

(4) proof the applicant is properly registered with the New Mexico Taxation and Revenue Department (TRD) for payment of gross receipts tax;

(5) 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;

~~[(3)]~~ (6) 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)]~~ (7) 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) 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)~~ **(8)** 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, 01/11/2022; A/E, 01/13/2022; A, 03/22/2022; A, 05/07/2024]

16.8.2.45 SUBMITTAL OF APPLICATION FOR AMENDED CANNABIS TESTING LABORATORY LICENSE:

A. Application: A cannabis testing laboratory shall submit to the division an application form for an amended license 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)] (1) change of licensee’s legal or business name;~~
- ~~[(3)] (2) material or substantial change in testing methods or equipment;~~
- ~~[(4)] (3) addition or elimination of a controlling person;~~
- ~~[(5) material or substantial change to a licensee’s security system;] or~~
- ~~[(6)] (4) material or substantial modification of the premises.~~

B. Requirements and processing of application for amended license: The application for amended license shall:

- (1) be clearly designated as one for an amended license;
- (2) supply any information representing a material change from the most recent application;

and

(3) include an initial demonstration of capability for any new or materially different method for performing a required test, including testing for an additional analyte or testing for an analyte using a different type of instrument.

C. Approval or denial: 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; or
- (2) testing for an analyte required in required testing using a different type of instrument. [~~or~~
- ~~(3) change to a licensee’s security system, including relocation of security points or installation of a new security system.]~~

E. Amended license not required: Other changes to standard operating policies and procedures, unless material or substantial, 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.

[16.8.2.45 NMAC – N, 01/11/2022; A, 05/07/2024]

16.8.2.50 APPLICATION REQUIREMENTS FOR CANNABIS CONSUMPTION AREA LICENSE:

A. An initial application or renewal for cannabis consumption area 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; and
- (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 consumption or retail area and all security requirements, 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) a copy of a current business license, fire inspection report, and zoning approval;
- (6) proof the applicant is properly registered with the New Mexico taxation and revenue department (TRD) for payment of gross receipts tax;
- ~~(6)~~ (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;
- ~~(7)~~ (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;
- ~~(8)~~ (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 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;
- ~~(9)~~ (11) 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 purchased for retail sale;
- ~~(10)~~ (12) certification the applicant will adhere to retail requirements pursuant to the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules;
- ~~(11)~~ (13) 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;
- ~~(12)~~ (14) certification the applicant will adhere to security requirements pursuant to the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules;
- ~~(13)~~ (15) 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;
- ~~(14)~~ (16) 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;
- ~~(15)~~ (17) 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;
- ~~(16)~~ (18) certification the applicant is not licensed under the Liquor Control Act;
- ~~(17)~~ (19) 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)~~ (20) 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

~~[(19)] (21)~~ 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.

[16.8.2.50 NMAC - N, 06/07/2022; A, 05/07/2024]

16.8.2.51 SUBMITTAL OF APPLICATION FOR AMENDED CANNABIS CONSUMPTION AREA LICENSE:

A. Application: A licensed cannabis consumption area 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)] (1)~~ change of licensee's legal or business name;
~~[(3)] (2)~~ addition or elimination of a controlling person;
~~[(4) material or substantial change to a license's security system;]~~ or
~~[(5)] (3)~~ 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]~~ includes

~~[(4)]~~ 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) 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.]~~

[16.8.2.51 NMAC - N, 06/07/2022; A, 05/07/2024]

16.8.2.57 APPLICATION REQUIREMENTS FOR CANNABIS RESEARCH LABORATORY LICENSE:

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

- (1) Business and controlling person(s) contact information, to include:
 - (a) legal business name, including DBA if applicable
 - (b) type of business entity;
 - (c) business mailing address;
 - (d) business telephone number;
 - (e) business email address;
 - (f) business physical address, if different;
 - (g) business web address, if applicable;
 - (h) 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 (Tier I, Tier II, or Tier III); and

(2) proof 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 controlling person;

(3) proof of compliance with local laws by submitting either:
(a) a copy of a current business license issued by the local jurisdiction in which the proposed premise is located, which may include zoning approval and a fire inspection report;

(b) evidence that the local jurisdiction in which the proposed premise is located does not issue business licenses; or

(c) evidence that the local jurisdiction in which the proposed premise is located does not issue business licenses prior to the issuance of a cannabis license.

(4) proof the applicant is properly registered with the New Mexico Taxation and Revenue Department (TRD) for payment of gross receipts tax;

~~(3)~~ (5) if applicable, certification the applicant is in good standing with the New Mexico secretary of state;

~~(4)~~ (6) a list of other current or prior licensed cannabis businesses;

~~(5)~~ (7) a list of other names used by controlling person(s);

~~(6)~~ (8) name and contact information for the primary controlling person for the business or an authorized representative of the business if not a controlling person;

~~(7)~~ (9) criminal history screening documents as set forth in 16.8.2.9 NMAC and the Cannabis Regulation Act;

~~(8)~~ (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) 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;

~~(9)~~ (12) if applicable, a detailed research plan, including but not limited to the applicant's plan for recruiting research subjects, producing or acquiring cannabis, dispensing cannabis, plans for continuing research, and the forms of usable cannabis and cannabis-derived products to be examined; if applicable, a detailed description of any private or public partnerships with higher education institutions, other cannabis research laboratories, or private business;

~~(10)~~ (13) if applicable, drug enforcement administration license to conduct research;

~~(11)~~ (14) 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;

~~(12)~~ (15) if applicable, the applicant's DEA license or any conditional approval from the DEA to bulk manufacture cannabis for research, or the applicant's plan for seeking such licensure in the future;

~~(13)~~ (16) certification the applicant will not use dimethylsulfoxide (DMSO) in the production of cannabis derived products, and will not possess DMSO on the premises of the licensee;

~~(14)~~ (17) evidence that the applicant has obtained all necessary permits required for the production of edible and topical cannabis products from the New Mexico environment department and that such permits are valid at the time the license application is submitted

~~(15)~~ (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;

~~(16)~~ (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;

~~(17)~~ (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, fire safety, environmental impacts, natural resource protections, air quality, solid and hazardous waste management, and wastewater discharge;

~~(18)~~ (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 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;

~~[(19)]~~ (22) certification the applicant will adhere to production and manufacturing 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 products;

~~[(20)]~~ (23) 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;

~~[(21)]~~ (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;

~~[(22)]~~ (25) an attestation by a person authorized to act on behalf of the business 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

~~[(23)]~~ (26) 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 10 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.

[16.8.2.57 NMAC – N, 07/12/2022; A, 05/07/2024]

16.8.2.58 SUBMITTAL OF APPLICATION FOR AMENDED CANNABIS RESEARCH LABORATORY LICENSE:

A. Application: A licensed research laboratory 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 or location of the premises;~~

~~[(2)]~~ (1) change of licensee's legal or business name;

~~[(3)]~~ (2) change or modification in extraction type(s) or equipment;

~~[(4)]~~ (3) material or substantial change in water source;

~~[(5)]~~ (4) addition or elimination of a controlling person;

~~[(6)]~~ ~~material or substantial change to a licensee's security system;~~ or

~~[(7)]~~ (5) material or substantial modification of the premise.

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, 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) an addition or removal of licensed activities taking place on a single licensed premise;~~

or

~~(2)~~ (3) 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.]~~

[16.8.2.58 NMAC – N, 07/12/2022; A, 05/07/2024]