



Mille Lacs Band of Ojibwe
Department of Cannabis Regulation
Cannabis Regulations

TESTING

Document No. CR – 11

Effective: *Date*

Contents

1. PURPOSE	2
2. DEPARTMENT AUTHORITY	2
3. PROHIBITED ACTIONS	2
3.1. Final Product Packaging	2
4. MANDATORY TESTING	2
4.1. Scope of Testing	2
4.2. Testing Report	3
4.3. Non-Hazardous Contaminants	3
4.4. Sample Collection Methods	4
5. RESPONSIBILITIES OF LICENSE HOLDER	4
5.1. General Requirements	4
5.2. Compacted Cannabis Activity	5
6. REMEDIATION AND NOTIFICATION PROCEDURES FOR NON-CONFORMING PRODUCTS	6
6.1. Remediation	6
6.2. Mandatory Notifications	6
7. ACCEPTANCE CRITERIA	7
7.1. Compacted Cannabis Activity	7
7.2. Cannabis Activity on Tribally Regulated Land	7



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TESTING

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1. PURPOSE

This Regulation implements 15 MLBS §§ 1203(d)(3) and 1217(c), Compact Art. IV.D, and Compact Attachment A, part 9810.3100. The purpose of this Regulation is to provide a framework that ensures the safe, secure, and lawful testing of cannabis-related activities within the Tribally Regulated Land and in coordination with the State of Minnesota.

2. DEPARTMENT AUTHORITY

To ensure public health and safety, the Department may, at any time, require immediate testing of a regulated product if the Department has reason to suspect that the product is a potential human health hazard or threat to public safety.

3. PROHIBITED ACTIONS

3.1. Final Product Packaging

- 3.1.1. A person may not offer any regulated product in the product's final packaging for wholesale distribution or retail sale if the product;
- a. has not undergone testing required by these Regulations and applicable State law; or
 - b. does not meet the acceptance criteria established by the Department for the regulated product.

4. MANDATORY TESTING

4.1. Scope of Testing

- 4.1.1. A testing facility must test regulated products by batch sample to verify:
- a. the potency and stability of the cannabinoids in the products for accurate labeling; and
 - b. the homogeneity of the cannabinoids in each serving in the batch to meet the acceptance criteria established by the Department and for accurate labeling.
- 4.1.2. If a testing facility finds any of the following contaminants, at a level exceeding that permitted under the acceptance criteria, in a batch of regulated products, the batch does not meet the acceptance criteria established by the Department:
- a. foreign material;



Mille Lacs Band of Ojibwe
Department of Cannabis Regulation
Cannabis Regulations

TESTING

Document No. CR – 11

Effective: *Date*

- b. heavy metals;
- c. microbiological contaminants;
- d. mycotoxins;
- e. pesticide residue; or
- f. residual solvents.

4.1.3. A testing facility must test a batch sample for stability and homogeneity after the batch has been packaged as a regulated product. A testing facility may test a batch sample for contaminants and potency before the batch has been packaged as a regulated product.

4.1.4. A testing facility must test a batch sample of a regulated product for stability, except that the first batch of a regulated product may have a six-month expiration date.

4.2. Testing Report

4.2.1. A testing facility must maintain a testing report produced by the facility for at least three years from the date of the report. A testing facility must make all testing reports available for inspection by the Department upon request.

4.2.2. A cannabis-derived ingredient testing report or hemp-derived ingredient testing report meets the testing requirement in this subpart if:

- a. the production process of the cannabis consumer product does not introduce a contaminant or increase the potential for introducing a contaminant into the regulated product; or
- b. handling the product has not altered the stability, potency, or homogeneity of the regulated product.

4.3. Non-Hazardous Contaminants

4.3.1. A product offered for sale is not required to be tested for a contaminant when the contaminant is not hazardous as determined under Section 4.3.2.

4.3.2. The Department may determine that a contaminant is not hazardous:

- a. upon application by a cannabis business, with supporting written documentation that establishes good cause and sound scientific basis for such finding; or



Mille Lacs Band of Ojibwe
Department of Cannabis Regulation
Cannabis Regulations

TESTING

Document No. CR – 11

Effective: *Date*

- b. upon its own initiative, when such determination is supported by good cause and sound scientific basis.

4.4. Sample Collection Methods

- 4.4.1. A cannabis or hemp business must design methods of sample collection that maintain the integrity of the sample. A cannabis or hemp business must:
 - a. ensure that sample containers, collection tools, and supplies do not alter the accuracy of the sample analysis;
 - b. clean sample containers, collection tools, and supplies and handle sample containers, collection tools, and supplies in a manner to prevent contaminants from being introduced into the sample;
 - c. perform sample collection in a manner visible to mandatory recording devices;
 - d. open, fill, and reseal a sample container in a manner designed to prevent the contamination of the container's contents and contamination of other samples;
 - e. use sterile equipment, utensils, and aseptic sampling techniques for the sample analysis;
 - f. identify collected samples with the product's name, the product batch number, the date on which the sample was taken, and the identity of the person who collected the sample; and
 - g. seal sample containers immediately after collecting the sample in a manner to indicate when tampering has occurred or when the integrity of the sample has been compromised.

5. RESPONSIBILITIES OF LICENSE HOLDER

5.1. General Requirements

- 5.1.1. A license holder is responsible for ensuring that:
 - a. workers responsible for sample collection have been properly trained on sampling procedures;
 - b. all mandatory testing is completed by a testing facility licensed by the Department or OCM, and, in the case of Compacted cannabis activity,



Mille Lacs Band of Ojibwe
Department of Cannabis Regulation
Cannabis Regulations

TESTING

Document No. CR – 11

Effective: *Date*

that testing is completed by a facility authorized to provide testing under the Compact;

- c. the identity and integrity of all samples collected are maintained from the time of sample collection until the testing facility or the licensed transporter receives the sample; and
- d. the license holder makes complete and accurate disclosures to the testing facility of all information necessary for the accurate laboratory analysis and reporting of testing results; including, Compacted cannabis activity, the cultivation and production methods required in Minnesota Statutes, section 342.61, subdivision 4.

5.2. Compacted Cannabis Activity

- 5.2.1. All regulated products produced, possessed, or handled by a licensee are subject to the testing requirements of these Regulations. It is the intent of these Regulations to harmonize the Band's testing requirements with those of the State, but the Compact may still impose testing requirements in addition to those required under these Regulations in order to facilitate safe and secure movement of regulated products off-Reservation.
- 5.2.2. Licensees must comply with all testing required under the Compact, even if duplicative of testing conducted under these Regulations:
 - a. All cannabis cultivated or manufactured on Tribally Regulated Land for sale outside of Tribally Regulated Land will be subject to batch sampling and full panel testing of the sample, which must be passed prior to the cannabis batch leaving Tribally Regulated Land. The results of the full panel test will be included in the Department's designated monitoring system and shall be visible to OCM in the instance-to-instance transfer.
 - b. Cannabis that is partially produced within Tribally Regulated Land and partially produced outside of Tribally Regulated Land is subject to the full panel test requirement prior to leaving Tribally Regulated Land, and to the State's testing requirements outside of Tribally Regulated Land.
 - c. Cannabis that is cultivated and/or manufactured by a Tribal Enterprise outside of Tribally Regulated Land is subject to the State's testing requirements as set forth in Compact Attachment A and the Cannabis



Mille Lacs Band of Ojibwe
Department of Cannabis Regulation
Cannabis Regulations

TESTING

Document No. CR – 11

Effective: *Date*

Technical Authority as the same may be amended or updated from time to time.

6. REMEDIATION AND NOTIFICATION PROCEDURES FOR NON-CONFORMING PRODUCTS

6.1. Remediation

- 6.1.1. A license holder must ensure that batches of regulated products that fail to meet acceptance criteria established by the Department for contaminant categories or homogeneity are:
 - a. disposed of according to [MLBO Regulation cross-reference, Environmental Standards and Disposal]; or
 - b. remediated according to a plan approved by the Department under these Regulations.
- 6.1.2. A license holder must identify and quarantine any product awaiting remediation or disposal to prevent the product's use. A license holder must not use any method of disposal or remediation that is not described in the license holder's remediation plan approved by the Department.
- 6.1.3. A license holder must ensure that all remediated material meets the Department's acceptance criteria, standards, and specifications as part of the approved remediation plan.

6.2. Mandatory Notifications

- 6.2.1. A license holder whose product fails to meet mandatory testing criteria must notify the Department of all noncompliant testing reports and include the following information in the notice:
 - a. the mandatory testing criteria that was not met;
 - b. the production status of the batch represented; and
 - c. the license holder's decision to dispose of the batch or remediate the batch under Section 6.1.
- 6.2.2. A license holder must notify the Department of all testing results of regulated products, including batches that have completed production processes and batches that have not completed production processes.



Mille Lacs Band of Ojibwe
Department of Cannabis Regulation
Cannabis Regulations

TESTING

Document No. CR – 11

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7. ACCEPTANCE CRITERIA

7.1. Compacted Cannabis Activity

For Compacted cannabis activity, the Department adopts by incorporation the acceptance criteria issued by OCM under Minnesota Rule 9810.3100, subp. 6.

7.2. Cannabis Activity on Tribally Regulated Land

The Department may issue acceptance criteria applicable to cannabis activity that is conducted entirely outside the scope of the Compact and on Tribally Regulated Land that is different or in addition to the acceptance criteria under Section 7.1. In the absence of such action by the Department, the acceptance criteria provided under Section 7.1 applies.