



Mille Lacs Band of Ojibwe
Department of Cannabis Regulation
Cannabis Regulations

LICENSE ENFORCEMENT AND APPEALS

Document No. CR – 18

Effective: *Date*

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1. PURPOSE

This Regulation implements 15 MLBS §§ 1210(r)-(g) and 1211 and Compact Art. IV. H. The purpose of this Regulation is to outline the Department's authority and processes to enforce license requirements, the Code, and the Band's Cannabis Regulations within and outside of the Band's Tribally Regulated Land, and, when required, in coordination with the State of Minnesota.

2. INSPECTIONS AND COMPLIANCE CHECKS

2.1. General Authority to Inspect and Investigate

- 2.1.1. The Department has the authority to, upon presenting appropriate credentials to the owner, operator, or agent in charge at a business licensee's premises and for any reason:
 - a. enter the business licensee's premises without delay at a reasonable time.
 - b. inspect and investigate a business licensee's premises during regular working hours and at other reasonable times in order to review the business's conditions, equipment, records, and materials; and
 - c. question the owner, operator, or agent in charge at a business licensee's premises.
- 2.1.2. An owner, operator, or agent in charge at a business licensee's premises may not refuse the entry of a Department representative for any reason. Such refusal constitutes grounds for an enforcement action under section 3.1.
- 2.1.3. The Department may accompany OCM during any annual site inspection or a credible suspicion-based inspection of a business licensee operating outside of the Band's Tribally Regulated Lands. OCM is required to provide at least 24 hours' written notice to the Department prior to conducting any such inspection.
- 2.1.4. The Department has the authority at any time to investigate an employee who is licensed pursuant to CR-3 to determine if the employee remains suitable to hold an employee license under the criteria set forth under CR-3, including whether an event has occurred that would make the employee unsuitable for a license by default under CR-3, Section 2.5. Employees holding an employee license and their employers must cooperate in any such investigation by providing information requested by the Department relevant to its investigation.



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- 2.1.5. The Department has the authority at any time to investigate a vendor who is licensed pursuant to CR-4 to determine if the vendor remains suitable to hold a vendor license under the criteria set forth under CR-4. Vendors holding a vendor license and the business licensees to which they are associated must cooperate in any such investigation by providing information requested by the Department relevant to its investigation.

2.2. Compliance Checks

- 2.2.1. The Department shall conduct compliance checks for every cannabis business license issued by the Department at least once a year. The checks shall assess compliance with age verification requirements; the applicable operation requirements; the applicable limits on the types of Cannabis Product and Cannabis Flower being sold; and any other standards required by the Code, Regulations, or the Compact. Such compliance checks shall be performed by an employee of the Department. The employee of the Department may request assistance from a Tribal law enforcement officer, if the employee deems it necessary for safety reasons.
- 2.2.2. The Department shall conduct unannounced age verification compliance checks at least once each calendar year. Age verification compliance checks must involve persons at least 17 years of age, but under the age of 21, who, with the prior written consent of a parent or guardian if the person is under the age of 18, attempt to purchase cannabis product or cannabis flower under the direct supervision of a Tribal law enforcement officer or an employee of the Department.
- 2.2.3. The Department shall issue a written report documenting the results of a compliance check administered under this section that includes findings and recommendations, as appropriate. The report shall be provided to the authorized representative of the business licensee with a copy maintained by the Department.

3. LICENSE VIOLATIONS

3.1. Enforcement Actions for License Violations

- 3.1.1. If the Department determines that a business licensee, employee licensee, or vendor licensee has committed a violation of Band law, Band regulation, its license terms, or the Compact, the Department through its Executive Director or their designee may take the following enforcement actions:



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- a. Corrective Action Order. The Department may issue an administrative order requiring the business licensee, employee licensee, or vendor licensee to correct the violation, to cease and desist from committing the violation, to pay a monetary fine as set forth under section 3.3, or to undertake any other action that the Department may mandate. The order must clearly state the deficiencies that constitute the violation, the time by which the violation must be corrected, and any other related directives, including any requirements and deadlines for submission of proof of correction to the Department.
 - b. Suspension Order. The Department may issue an administrative order suspending a cannabis business license, employee license, or vendor license. Such order may include other remedies available to the Department, including corrective action and a monetary fine as set forth under section 3.3.
 - c. Revocation Order. The Department may issue an administrative order revoking a cannabis business license, employee license, or vendor license. Such order may include other remedies available to the Department, including a monetary fine as set forth under section 3.3. As a condition of issuing a revocation order, the Department must provide the business licensee, employee licensee, or vendor licensee with written notice of intent to revoke the license and an opportunity for the licensee to respond to the notice in a reasonable amount of time, but no less than five (5) business days after issuance of the notice.
- 3.1.2. The Department is not required to proceed first with a particular type of enforcement action as a condition of proceeding to a more severe enforcement action when needed.
 - 3.1.3. Failure to comply with the terms of an administrative order issued under this section may serve as a basis for further enforcement action taken by the Department in its discretion.

3.2. Cease Orders for Improper Distribution for Business Licensees

- 3.2.1. If the Department finds probable cause to believe that a business licensee is distributing any cannabis flower or cannabis product in violation of Band law, Band regulation, its license terms, or the Compact, the Department must take action requiring the licensee to immediately cease distribution of products, and



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may tag and withdraw the cannabis flower or cannabis product from distribution.

- 3.2.2. The Department's issuance of cease order does not preclude the Department from taking additional enforcement action outlined in section 3.1.

3.3. Monetary Fines

- 3.3.1. The Department may not issue a monetary fine of more than \$5,000 per business licensee, employee license, or vendor licensee, per license violation and may not issue a fine of greater than \$10,000, per licensee in the aggregate for violations stemming from the same predicate act.
- 3.3.2. The Department may issue a fine to a business licensee, an employee licensee, or a vendor licensee for any violation of Band law, Band regulation, license terms, or the Compact, and for no other reason.
- 3.3.3. The Department shall adopt a fine schedule outlining guidance for issuance of fines based on the number of prior violations. The fine schedule shall allow the Department to depart from the guidance based on the severity of the violation and to consider the business licensee, an employee licensee, or a vendor licensee's financial status in determining the amount of the fine.

3.4. Reconsideration of Enforcement Action

- 3.4.1. Within 15 calendar days after the date of issuance of any enforcement action taken pursuant to sections 3.1 and 3.2, a business licensee, employer licensee, or vendor licensee may submit a written request to the Executive Director for reconsideration of the administrative order imposing the enforcement action if the business licensee, employer licensee, or vendor licensee believes the administrative order was issued in error.
- 3.4.2. Upon submission of request for reconsideration, the Executive Director of the Department shall first review the application for timeliness and completeness. If the Executive Director determines that the request is not timely or complete per the instructions provided in the administrative order and the requirements of these Regulations, the Executive Director shall deny the request and provide written notice to the requesting party of such denial.
- 3.4.3. If the request for reconsideration is complete, the Executive Director shall review the request and shall determine whether to uphold the original administrative order, vacate the order, or modify it. The Executive Director



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shall memorialize its decision in writing and issue it to the business licensee, employee licensee, or vendor licensee within 15 calendar days of the date the timely and complete request was received by the Executive Director.

- 3.4.4. The Executive Director may, but is not required to, stay the imposition of the enforcement action pending a decision on a request for reconsideration.

3.5. Finality of Enforcement Decisions

- 3.5.1. Except for actions that may be appealed as provided in section 4.1, any enforcement action issued by the Department is final and unappealable to any court, body or other forum once the time period for a request for reconsideration has passed and the business licensee, employee licensee, or vendor licensee has failed to submit a complete request for reconsideration. If the business licensee, employee licensee, or vendor licensee submits a timely and complete request for reconsideration of an enforcement action not subject to appeal under section 4.1, the Department's decision on the request is final and unappealable to any court, body or other forum.
- 3.5.2. For enforcement actions that may be appealed as provided in section 4.1, such action is final and unappealable to any court, body, or other forum once the time period for filing an appeal has passed and the business licensee or employee licensee has failed to submit a notice of appeal. If the business licensee or employee licensee submits timely and complete notice of appeal of an enforcement action appealable under section 4.1, the Board's decision on that appeal is final and unappealable to any court, body or other forum.

3.6. Notice of Right to Seek Reconsideration and Appeal

For any enforcement action taken pursuant to sections 3.1 or 3.2, the Department must include in writing on the administrative order a notice to the business licensee, employee licensee, or vendor licensee of the right to seek reconsideration of the enforcement action and, if applicable, the right to appeal, and must attach a copy of this regulation to the order.

4. APPEAL OF LICENSE DENIAL OR ENFORCEMENT ACTION

4.1. Appeal Process

- 4.1.1. Regardless of whether the licensee has filed a request for reconsideration, a business licensee or employee licensee may appeal the following actions to the Board pursuant to the requirements as provided herein:



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- a. a denial of a license;
 - b. a license suspension; or
 - c. a license revocation;
- 4.1.2. The business licensee or employee licensee may appeal an action listed under section 4.1.1 by filing a notice of appeal with the Executive Director within 30 calendar days after the date the business licensee or employee licensee receives an administrative order revoking a license, an administrative order suspending a license, or a notice of denial of a license. The notice of appeal shall include, at a minimum, a description of the action being appealed, the reasons why the licensee believes the action was taken in error, and any evidence and documentation supporting the business licensee or employee licensee's appeal.
- 4.1.3. Within five (5) calendar days of the licensee's submission of a notice of appeal, the Executive Director shall gather and transmit the appeal record to the licensee and the Board, which shall consist of the administrative order or notice of license denial issued along with any documentation supporting that action, a request for reconsideration and any decision on such a request if one was made, and any other relevant documentation.
- 4.1.4. After receiving the appeal record, the Board may deny the appeal without a hearing if it determines that the appeal was not timely filed.
- 4.1.5. If the Board determines that the appeal was timely filed, within five (5) calendar days of the Board's receipt of the appeal record, the Board shall schedule an appeal hearing and provide notice of the date, time, and location of the hearing to the business licensee or employee licensee and the Executive Director. The hearing must be held no later than thirty (30) calendar days after the Executive Director's receipt of the business licensee or employee licensee's notice of appeal.
- 4.1.6. The burden of proof rests with the licensee to demonstrate by clear and convincing evidence that the enforcement action or denial was issued in error. If the Board determines that the business licensee or employee licensee has not met its burden of proof, the Board shall deny the appeal. If the Board determines that the business licensee or employee licensee has met its burden of proof, it shall reverse the action in whole or in part.



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- 4.1.7. The Board may issue a final decision at the conclusion of the hearing or may take the matter under advisement.
- 4.1.8. A final decision in the form of an order shall be made within 15 calendar days of the appeal hearing concluding. All final decisions shall be made in writing and served to all parties within five (5) business days of the final decision being made.

4.2. Appeal Hearing

- 4.2.1. The Board may develop procedures for conducting the appeal hearing, provided that any such procedures ensure that the business licensee or employee licensee has the opportunity to present relevant and material evidence, including testimony and oral arguments, demonstrating why the enforcement action was issued in error, the Executive Director has the opportunity to respond to the case presented by the business licensee or employee licensee, and that the Board has the opportunity to question both parties.
- 4.2.2. The business licensee or employee licensee and the Department may be represented by legal counsel at the hearing, provided that counsel abide by all standards and procedures applicable to the hearing.
- 4.2.3. The business licensee or employee licensee must limit its arguments to the issues raised in the Notice of Appeal. No new arguments or allegations will be considered by the Board.

5. NOTICE OF NON-COMPLIANCE BETWEEN DEPARTMENT AND OCM

5.1. Notice to OCM

- 5.1.1. The Department shall provide written notice to OCM of any material noncompliance or credible suspicion of noncompliance with the Code, the Regulations, or the Compact by a licensee that poses a public health or safety risk.
- 5.1.2. The Department shall provide written notice to OCM of any evidence the Department learns of material noncompliance or credible suspicion of noncompliance with chapter 342 of the Minnesota Statutes or chapter 9810 of the Minnesota Administrative Rules arising at or committed by a state-licensed cannabis business that conducts transactions with a licensee that poses a public health or safety risk.



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5.2. Notice by OCM

- 5.2.1. OCM shall provide written notice to the Department of any material noncompliance or a credible suspicion of noncompliance with chapter 342 of the Minnesota Statutes or chapter 9810 of the Minnesota Administrative Rules arising at or committed by a state-licensed cannabis business that conducts transactions with a Licensee that poses a public health or safety risk.
- 5.2.2. OCM shall provide written notice to the Department of any evidence of material noncompliance or credible suspicion of noncompliance with the Compact by a licensee that conducts transactions with a state-licensed cannabis business that poses a public health or safety risk.

5.3. Form and Timing of Notice

All notices required under sections 5.1 and 5.2, shall be provided within five (5) business days of discovery of material noncompliance or credible suspicion of noncompliance and shall include detailed information about the nature of the noncompliance, the entities involved, and any immediate actions taken by the reporting agency.

5.4. Response to Notice

The Department shall take action to address to areas of noncompliance by a licensee noticed under sections 4.1 and 4.2, and shall notify OCM of the action and correction taken.

6. ROUTINE REPORTING TO OCM

Within ninety (90) days following December 31 of each calendar year, the Department shall submit an annual report to OCM summarizing compliance activities, including inspections conducted, violations identified, and corrective actions implemented for all licensees conducting cannabis activity authorized by a license issued by the Department outside of the Band's Tribally Regulated Land. The report will also include any trends or recurring issues observed and recommendations for addressing them.