



Mille Lacs Band of Ojibwe
Department of Cannabis Regulation
Cannabis Regulations

DATA PRIVACY

Document No. CR – 22

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1. PURPOSE

This chapter implements 15 MLBS §§ 1203(b) and 1203(e)(1), (15). It regulates the collection, creation, storage, maintenance, dissemination, and access to Department data. It establishes a presumption that Department data are public and are accessible by the public for both inspection and copying unless there is federal law, a provision of the Tribal-State Compact, Band statute, order or regulation, or a temporary classification of data that provides that certain data are not public.

This chapter also regulates the collection, creation, storage, maintenance, dissemination, and access to customer data by licensees. It establishes a presumption that customer data may not be stored or disseminated except as required by law unless the individual who is the subject of the data consents.

2. ACCESS TO DEPARTMENT DATA

2.1. Presumption of Public Access

Department data is public unless classified by Band statute, regulation or order, temporary classification pursuant to section 6.4 of this regulation, federal law, the Compact, or applicable State law, as confidential data.

2.2. Procedure for Access to Department Data

- 2.2.1. The Department must designate an employee (the “designee”) as the contact for requests to access department data.
- 2.2.2. Upon request to the designee, a person shall be permitted to inspect and copy public department data at reasonable times and places, and, upon request, shall be informed of the data’s meaning. If a person requests access for the purpose of visual inspection, no charge will be assessed. Inspection does not include printing copies by the designee, unless printing a copy is the only method to provide for inspection of the data.
- 2.2.3. The designee shall provide copies of public department data upon request. The designee may require the requester to pay the reasonable actual costs of searching for, retrieving, and copying department data, including the cost of employee time, and for making, certifying, and compiling the data. Copies shall be supplied as soon as reasonably possible.
- 2.2.4. For a request for department data kept in a computer storage medium, the designee will provide a copy of any requested public data in electronic form, if the designee can reasonably make the copy or have a copy made. This does not



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require the designee to provide the data in an electronic format or program that is different from the format or program in which the data are maintained by the Department. The designee may require the requesting person to pay the actual cost of providing the copy.

- 2.2.5. If the designee determines that a request for data seeks information that is confidential and not classified for release to the requester, then the designee shall inform the requesting person of the determination either orally at the time of the request, or in writing as soon after that time as possible, and shall cite the specific Band statute, regulation or order, temporary classification, or federal law on which the determination is based. Upon the request of any person denied access to data, the designee shall certify in writing that the request has been denied and cite the specific basis for the denial.

3. RIGHTS OF SUBJECTS OF DEPARTMENT DATA

- 3.1.1. An individual may request whether the Department maintains information on the individual and the classification of such information.
- 3.1.2. Upon request to a designee, an individual shall be informed whether the individual is the subject of department data, and whether it is classified as public, confidential data, confidential limited availability data or confidential restricted availability data.
- 3.1.3. Upon further request, an individual who is the subject of confidential limited availability data or public data shall be shown the data without any charge and, if desired, shall be informed of the content and meaning of that data. After an individual has been shown the confidential limited availability data and informed of its meaning, the data need not be disclosed to that individual for six months thereafter unless a dispute or action is pending or additional data on the individual has been collected or created.
- 3.1.4. The designee shall provide copies of the confidential limited availability data upon request by the individual subject of the data. The designee may require the requesting person to pay the actual costs of making, certifying, and compiling the copies. The designee shall comply immediately, if possible, with any request made pursuant to this subdivision, or within ten (10) days of the date of the request, excluding Saturdays, Sundays and legal holidays, if immediate compliance is not possible.

4. DUTIES OF DEPARTMENT



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4.1. Data Storage

4.1.1. The Department must store confidential data as follows:

- a. for electronic data, on encrypted drives or servers where possible, and if unencrypted, accessible only with a password; and
- b. for hard copy data, in locked cabinets in an access-controlled room.

4.2. Data Destruction

The Department will implement document management policies to ensure that data no longer needed or required to be maintained is deleted or destroyed.

4.3. Data Use

- 4.3.1. The Department may use and collect data as required or permitted by Band law and these regulations, or any other lawful purpose.
- 4.3.2. Subject to the limitations of section 4.3.3, the Department may share data with other governmental departments or agencies of the Band, provided that such recipient department or agency is bound by the data classification applied under these regulations.
- 4.3.3. Confidential restricted availability data, including such data that is so designated under section 7 (audit or inspection data), section 8 (licensing data), and section 9.2 (personnel data), may not be disclosed under this provision unless the Department is able to de-identify or aggregate the information to ensure the integrity of any ongoing compliance matters and the privacy of data subjects.

5. PUBLIC DATA

Department data that is not confidential data is presumed to be public data.

6. NON-PUBLIC DEPARTMENT DATA

6.1. Confidential Data

“Confidential data” means department data that, by Band statute, regulation or order, or by applicable federal law, is not made available to the public. The term includes confidential limited availability data and confidential restricted availability data.

6.2. Confidential Restricted Availability Data



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- 6.2.1. “Confidential restricted availability data” means confidential data that is not available to the subject of the data.
- 6.2.2. Subject to section 6.3.2 (a), the following department data is confidential restricted availability data:
 - a. information on any pending compliance matter or investigation;
 - b. information on any pending license application;
 - c. licensing data as described in section 8;
 - d. security information; and
 - e. trade secret information.

6.3. Confidential Limited Availability Data

- 6.3.1. “Confidential limited availability data” means confidential data that by Band statute, regulation or order, or by applicable federal law is made accessible to the subject of the data, if any.
- 6.3.2. Confidential limited availability data includes:
 - a. all data submitted directly to the Department by the subject of the data, provided that this designation does not extend to any assessment, analysis, comment, synthesis, or other handling or use of the data by the Department;
 - b. financial information, whether relating to a licensee or other person;
 - c. licensing data, except as provided in section 8; and
 - d. personnel data, except as provided in section 9.

6.4. Temporary Classification

- 6.4.1. The Department may classify data as confidential data temporarily where no Band statute, regulation or order, or federal law currently exists which either allows or forbids classification as confidential data; and either
 - a. data similar to that for which the temporary classification is sought has been treated as either private or confidential by Mille Lacs Corporate Ventures or other agencies of Mille Lacs Band Government or by the federal government; or



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- b. a compelling need exists for immediate temporary classification, which if not granted could adversely affect the public interest or the health, safety, or well being of the subject of the data.
- 6.4.2. If the Department classifies certain data as confidential data under this section, that classification shall become effective immediately.
- 6.4.3. No later than July 1 of each year the Department shall submit all temporary classifications then in effect of data associated with tribal cannabis enterprises to the Band’s Commissioner of Corporate Affairs for review. The Commissioner may comment on the classification and the Department shall consider the comments of the Commissioner in reaching its decision. If the Commissioner fails to act by July 1 of the year following the submission of a temporary classification hereunder, then the classification shall thereupon expire.

7. AUDIT AND INSPECTION DATA

Data, notes, and preliminary drafts of reports created, collected, and maintained by the Band or persons performing audits for the Band, and relating to an audit, monitoring visit, or investigation are confidential restricted availability data until a report has been published or the audit or investigation is no longer being pursued actively.

8. LICENSING DATA

The following licensing data collected, created or maintained by the Department are classified as confidential restricted availability data: the identity of each person interviewed in the course of conducting a license investigation; the identity of complainants who have made reports concerning licensees or applicants which appear in inactive complaint data unless the complainant consents to the disclosure; the nature or content of unsubstantiated complaints when the information is not maintained in anticipation of legal action.

9. PERSONNEL DATA

9.1. Public Data

- 9.1.1. The following personnel data on current and former Department employees and independent contractors, to the extent held by the Department, is public:
- a. name; and, as applicable, employee identification number, which must not be the employee’s social security number; salary range; contract fees; actual gross pension; the value and nature of employer paid fringe



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- benefits; and the basis for and the amount of any added remuneration, including expense reimbursement, in addition to salary;
- b. job title; job description; education and training background; and previous work experience;
- c. date of first and last employment or start and end of contract term;
- d. the final disposition of any disciplinary action together with the specific reasons for the action and data documenting the basis of the action, excluding data that would identify confidential sources; and
- e. work location; a work telephone number; badge number; and honors and awards received.

9.2. Confidential Limited Availability Data

9.2.1. The following personnel data is confidential limited availability data:

- a. home address, personal contact information, any account or identification numbers other than those specified in section 9.1; and
- b. personal history statement and any other information provided solely for the purpose of conducting a background check.

10. PRIVILEGED DATA

10.1. Department Legal Counsel

Attorney-client communications between Department personnel and the Department's legal counsel, and the attorney work-product of the Department's legal counsel, are confidential restricted information in addition to any protections afforded under common law or applicable statute for such information.

10.2. Other Privileges and Immunities

The Department reserves the right to assert any privilege or immunity available under common law or statute in response to any request for confidential information arising from a legal or administrative proceeding.

11. LICENSEE DUTIES REGARDING COLLECTION, RETENTION, AND DISSEMINATION OF CUSTOMER DATA

11.1. Customer Data



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- 11.1.1. A licensee must collect, use, and maintain customer data as necessary to comply with obligations under the Code, Regulations, or Compact.
- 11.1.2. A licensee may collect and use customer data other than as permitted under 11.1.1 only with consent of the customer. Customer consent for use of customer data must be obtained in writing, including electronic communication; specifically identify the data to be collected and used; and identify the use for which consent is sought. The request for customer consent must state that licensee could be required to disclose customer data in response to a court order or as otherwise required by law.

11.2. Secure Storage

- 11.2.1. A licensee must store confidential data, including any confidential customer data, as follows:
 - a. for electronic data, on encrypted drives or servers where possible, and if unencrypted, accessible only with a password; and
 - b. for hard copy data, in locked cabinets in an access-controlled room.

11.3. Destruction of Data

- 11.3.1. A licensee must delete or destroy any customer data in its possession unless:
 - a. required by law or regulation to maintain the data; or,
 - b. the customer data is subject to a valid consent for the licensee to possess and use the data.

11.4. Compliance with Audits, Department Record Requests

A licensee must disclose, or allow access, to, confidential data to officials conducting a lawful audit or investigation of the licensee.

12. NOTICE

- 12.1.1. In the event that confidential data maintained by a licensee or the Department is acquired by unauthorized persons, the licensee or Department must provide notice to the subject of the data.
- 12.1.2. Notice of unauthorized acquisition must be provided within 30 days of the licensee or Department discovering, or possessing facts that would put a reasonable person on notice of, the unauthorized acquisition. The notice must



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contain a description of the data acquired and description of the circumstances in which it was acquired, including identification of the acquiring party, if known.