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FILE NO.: 59024.0001

November 14, 2022

Michael Douglas, Chairman
Cannabis Compliance Board
700 E. Warm Springs Road, Suite 100
Las Vegas, NV 89119

Re: Sierra Cannabis Coalition - Petition

Dear Chair Douglas and members of the Cannabis Compliance Board,

On behalf of RSR Analytical Laboratory please allow this letter to serves as an objection to the Petition recently submitted on behalf of the Sierra Cannabis Coalition. In light of the fact that the proposed regulatory amendments pertain specifically to cannabis testing labs, as a licensee, RSR respectfully submits this objection pursuant to NCCR 4.145 and requests to be heard during the Board's consideration of the matter.

For the following reasons RSR objects to the proposed amendments: (i) they fail to consider the economic impact said changes would have on Nevada's cannabis industry, in particular the testing labs; (ii) the proposed regulatory changes are not based on science nor any objective testing standard(s) but instead serve only to economically benefit Sierra's members (who have not been disclosed); and (iii) the petition fails to consider the potential impact said changes could have on cannabis consumers and patients.

For the reasons set forth herein, RSR submits that the Petition conflicts with the **Legislative findings and declarations** and the obligation of all cannabis licensees to protect the general welfare of the people of this State. Nevada Revised Statute ("NRS") 678B.010(1). Accordingly, said Petition should be denied.

Sincerely yours,

/s/ *Kimberly Maxson Rushton*

Kimberly Maxson Rushton, Esq.

cc: R. Rushton
R. Richardson

digipath, inc.
(OTCQB : DIGP)

(702) 209 - 2429
6450 Cameron St. #113 Las Vegas, NV 89118

Nevada Cannabis Compliance Board
700 East Warm Springs Road, Suite 100
Las Vegas, Nevada 89119
Email: kwayman@ccb.nv.gov
Web: https://ccb.nv.gov/

November14, 2022

RE: DIGIPATH LABS OPPOSES THE SIERRA CANNABIS COALITION PETITION | LOT SIZE PROPSED CHANGES

Chair Douglas and members of the Cannabis Compliance Board

On behalf of Digipath Labs and all the other labs in Nevada, I present this letter as a rebuttal to Will Adler and the Sierra Cannabis Coalition's letter dated October 28, 2022, and sent to Tyler Klimas, Executive Director of the CCB.

First, let me say that any consideration to change lot sizes without any scientific data and without any participation with the Lab Community is ludicrous. Not one scientist was consulted on this proposed change.

(Their petition in italics)
Adjusting lot sizes upwards from the current five pounds for flower and 15 pounds for trim to 50 pounds for each. In speaking with licensees, between 5% and 10% of the final retail cost of cannabis can be traced back to laboratory testing expenses. In reviewing other western states, nearly all have either a higher testing threshold or test an entire harvest similar to our batch. California and Oregon have a limit of 50 pounds, whereas Colorado tests by the total harvest. Earlier this year, Washington removed their five-pound lot limit for testing and, instead, based their testing samples on harvest size through a sliding scale of up to 50 pounds. Having five- and 15-pounds lot sizes definitions restricts operators into breaking down single batches into multiple lots. This means additional labor costs related to separating the batches into multiple lots, separately bagging each lot, test each lot and in many instances recombining each lot when the final cannabis product is ultimately sold. All of this creates an additional burden on the licensee requesting the test and, ultimately, an additional cost accounted for in the final retail price.

Raising the lot size randomly to 50 pounds has many scientific questions.

- What is the new sampling size?
- How many tests will have to be done based on new sample size?
- Does the 12-gram limit go to 120 grams sample size?
- Or will it stay the same and be reduced from .52% of a lot to .05%?
- Will the 120 grams sample size now get homogenized together?
- How many sample sets will have to be made to ensure accuracy?
- If one thing fails along the way, is that a failure for the complete 50 pounds?
- Why would we want to reduce accuracy percentages?
- Is this safer for the consumer and patient?

Finally:

- Where is the ***scientific evidence*** that this is better? The truth is, there isn't any.

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I would also like to highlight the need and the importance of sample size calculation.

The importance of appropriate sample size cannot be overemphasized for the reasons listed below in regards to:

- Scientific reasoning
- Health and safety of the public

Whatever the aim, one can only draw a precise and accurate conclusion with an appropriate sample size. As it is, we are only collecting a sample set of 0.52% and only test a sample set of 0.31% of flower. Increasing the batch size will reduce the sample set per lot. A smaller sample set will give a result which may not be sufficient to detect a difference between the layers and depth of the batch. This would affect the results by reducing the accuracy and will reduce the visibility of the batch throughout by a factor of 10. The study may turn out to be falsely negative leading to a type II error.
A type II error produces a false negative, also known as an error of omission.

A study on a small sample is inaccurate and false obvious reasons, but it is also a waste of time and money as the result will be invariably inconclusive. Very often, a small sample size is decided arbitrarily based on convenience, available time, and resources, resulting in a null trial due to insufficient number of samples per lot studied.
Statistically, even if we are 100% accurate in our testing (which is impossible), increasing the batch sizes without increasing the number of tests per batch will make us 10% accurate. This doesn't even account for standard deviation or measurement of uncertainty. In any scientific calculation or statistical analysis, the sample size is directly proportional to the numerical measurement that describes a value's relationship to the mean of a group of values. It is also inversely proportional to the margin of error. Consequently, reducing the sample size reduces the confidence level of the study. Decreasing the sample size also increases the margin of error.

Effective batch size per test is the key to safe product. Even a small difference between layers of a batch is a significant difference and is extremely difficult to identify in large batch sizes. The health and safety of the public will be compromised by these differences. Overall, the size of our sample set dictates the amount of information we have and therefore, determines our precision or level of confidence that we have in our sample estimates.

Revise the definition of a "production run" to not include a specific amount of concentrated cannabis, but instead indicate. Similar to the lot size for flower and trim, this current definition requires cannabis extracts to be tested in 2.2 pound increments, a threshold not found in any other state. This results in a process where, again, single production runs have to be separated into 2.2 pound increments, each tested, and again usually recombined for the creation of any final cannabis product.

- Testing in a 2.2-pound container is hard enough to get a real homogenized sample. It will become even more difficult to sample from a 10lb container (or whatever size is chosen). Smaller lots are the only way to measure consistency and accuracy.

Change when cannabis products must be sent to testing. Currently, a cannabis product will need to be sent to testing at every step of the process. We believe this is redundant. Instead of requiring testing along the many steps of the process, testing for cannabis products should be done once the end cannabis product has reached its final form as ultimately that final test is the one protecting the consumer.

- Do they want to guess on the formulations? Extractions must be tested before making another product, so you know how to do the math to create the new product.
- The test after the new product is made must be tested to ensure accuracy.
- What if they create a whole batch of incorrect products? More batches will fail due to incorrect math if testing is not done every step of the way.

- There is no way to know what the final product will be unless it is tested at multiple stages.

Adjust the process for research and development to no longer require approval from the CCB to begin investigating new products and processes. Currently, in order for research and development to begin the CCB needs to not only review any and R&D request applications but also grant approval to such a request. We believe this amendment will help expedite the process for a quickly evolving industry to better innovate and meet consumer demands.

- I'm actually ok with this.

This petition is primarily focused on streamlining the cannabis testing process.

- Says who? The Cultivators and Producers? How could **they** know how to streamline the testing process.
- Maybe having someone from the testing labs on the committee to help explain the testing process and what is involved to obtain accurate testing that could affect people's lives and livelihoods.
- This will cause a complete disruption in the industry.

These changes will allow Nevada's cannabis cultivation and production facilities to simplify their procedures, reduce the number of manual steps, and clarify what gets tested and when.

- Is that the goal? To simplify cultivation and production facilities procedures at the risk of public safety?
- What about the changes that will be forced on the labs?
- Doesn't Nevada want to maintain the GOLD STANDARD of testing moniker that Will Adler used to preach about?

As these changes are designed to streamline operations, a positive impact on the operations of Nevada's cultivation and production licenses can be expected. Cannabis distribution and retail cannabis store licenses will likely see no tangible changes to their operations from this proposed regulatory change.

- What are the actual positive impacts?
- Many changes will happen to labs and some labs may go out of business and we have very low margins. It is very expensive to run a laboratory and our business models have been created and implemented based on the 5lb lot legislation.
- This will NOT have a positive impact on the Labs.

Cannabis testing laboratories may need to change operations around testing cannabis products and may need to increase sample sizes in conjunction with any change in testing practice.

- So, will testing labs increase the cost per test x10 to survive?
- Or will labs have to do 10 times more testing?

As the Sierra Cannabis Coalition has presented this year, Nevada's cannabis licenses are having their most difficult year yet.

- Labs are also having a very difficult year because we can't get paid by cultivators and producers for work that we've already done as far back as 2020. I bet everyone in the lab business is currently owed 10's of thousands of dollars.

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Many businesses have reported they are not sure if they can make it another year.

- This will CRUSH labs. We built business models based on 5lb lots. Many labs will not make it another year if this is enacted. As mentioned above, with very low margins and a huge amount of competition in the labs space, we will lose a few labs for sure.

With inflation, workforce issues, the struggles with 280E, and the increase in interest rates Nevada's cannabis operators need a change to bring economic relief.

- Labs are in the same boat. No lab that I know of is rolling around in cash.
- Our workforce is chemists and microbiologists, seemingly much harder to find than cultivation workers.

This petition was crafted with the economic concerns of the members of the Sierra Cannabis Coalition, please take those concerns to heart as you discuss and consider the needed changes to the NCCR.

- Again, it should be license holders and scientists directly affected by these random decisions; not some made up Cannabis Coalition with zero ties to the industry other than lobbying.

Sincerely,

Todd Denkin
President | Founder
Digipath Labs, Inc.
6450 Cameron Street #113
Las Vegas, NV 89014

November 14, 2022

Cannabis Compliance Board
700 Warm Springs Road, Suite 100
Las Vegas, NV 89119

Subject: Silver State Government Relations Petition

Dear Cannabis Compliance Board Members,

On behalf of the members of the Nevada Cannabis Association, we are writing in support of the petition submitted by Silver State Government Relations, Agenda Item VII.

Nevada is in the minority of states in terms of its maximum lot sizes for testing. As noted in the petition, surrounding states allow lots of up to 50 lbs. It is clear that safety and testing standards can be maintained with larger lot sizes.

Allowing for larger lot sizes will significantly lower costs and increase efficiency for many cultivation and production licensees, who are facing significant economic challenges. Additionally, lowering the costs of goods in the supply chain will aid the industry in competing with the unlicensed market. For these reasons, we ask that the Board refer the petition to a workshop for further consideration.

Respectfully,

Layke A. Martin, Esq.
Executive Director
Nevada Cannabis Association

From: Nathan Sigal <nathan@maanalytics.com>
Sent: Monday, November 14, 2022 3:20 PM
To: CCB Meetings
Subject: Re: CCB Petition Submitted by Sierra Cannabis Coalition

To Whom It May Concern:
Re: CCB Petition Submitted by Sierra Cannabis Coalition
On October 28, 2022, Silver State Government Relations filed a petition with the CCB requesting amendments to various NCCR's that directly impact independent testing labs in Nevada. The petition has been added to the CCB's November agenda (11/15/22) for consideration.
MA Analytics opposes this petition for the following reasons.
Petition: Adjusting lot sizes upwards from the current five pounds for flower and 15 pounds for trim to 50 pounds for each. In speaking with licensees, between 5% and 10% of the final retail cost of cannabis can be traced back to laboratory testing expenses. In reviewing other western states, nearly all have either a higher testing threshold or test an entire harvest similar to our batch. California and Oregon have a limit of 50 pounds, whereas Colorado tests by the total harvest. Earlier this year, Washington removed their five pound lot limit for testing and, instead, based their testing samples on harvest size through a sliding scale of up to 50 pounds. Having five and 15 pounds lot sizes definitions restricts operators into breaking down single batches into multiple lots. This means additional labor costs related to separating the batches into multiple lots, separately bagging each lot, test each lot and in many instances recombining each lot when the final cannabis product is ultimately sold. All of this creates an additional burden on the licensee requesting the test and, ultimately, an additional cost accounted for in the final retail price.
Response:
Expansion of the lot size to fifty (50) pounds will reduce the sample size to .05% of the lot. Thus, it will not be a scientifically representative sample. Science demonstrates that testing results are more accurate the smaller the lot size. Therefore, the CCB must consider the cost benefit to the cultivator versus the impact that expanding the lot size will have on safety of consumers and patients.
The lab industry submits that the factual information set forth in the petition is not accurate as testing fees are not 5% - 10% of the cost but instead it's 3-5% of the cost (at most). This is based on the following calculation: average cost of testing is between $60-$80 per pound / average pound of cannabis sells for $2000 (or more).
To protect public safety, lot size of 50 pounds will require multiple numbers of larger samples than the current practice and to be tested as multiple samples in order to be statistically representative for the lot. This will increase the cost for the cultivation handling and storing the cannabis material.

Petition: Revise the definition of a "production run" to not include a specific amount of concentrated cannabis, but instead indicate. Similar to the lot size for flower and trim, this current definition requires cannabis extracts to be tested in 2.2 pound increments, a threshold

2

not found in any other state. This results in a process where, again, single production runs have to be separated into 2.2 pound increments, each tested, and again usually recombined for the creation of any final cannabis product.
Response:
Based on multiple years of testing extracts in 2.2.lb increments, the labs submit that scientifically, a smaller lot size leads to more accurate and consistent results. Thus, the CCB must consider whether the economic benefit to the producer outweighs the potential risk to the consumer/patient.
In addition, the 1kg (2.2 lb) size limit for extracts/concentrates is also the limiting factor when it comes to lot size of infused edibles, infused non-edibles, topicals and infused pre-rolls. If there are no limits for the size of the concentrates, or if the limit is increased substantially, the determination of the size, of a production run will create substantial compliance issues. Such scenario could also give rise to an extremely large run of which quality and homogeneity could be difficult to control.

Petition: Change when cannabis products must be sent to testing. Currently, a cannabis product will need to be sent to testing at every step of the process. We believe this is redundant. Instead of requiring testing along the many steps of the process, testing for cannabis products should be done once the end cannabis product has reached its final form as ultimately that final test is the one protecting the consumer.
Response:
The requested amendment lacks any factual or scientific substantiation and does nothing to ensure the safety of a cannabis consumers. Recognizing that extractions must be tested prior to being added to another product, if the proposed amendment were to be adopted, producers would be forced to make assumptions on the formulations used to create new products. Thus, without testing at each step of the process there is no assurance that the final product is safe for consumers. The CCB must consider whether to accept Silver State's representations that this will not otherwise be harmful to consumer or the science supporting the labs position.
Public safety is our priority; because there are different testing requirements for concentrates and the infused products made using these, it is necessary to test these extracts for analytes, specifically heavy metals, pesticides, residual solvents, Aspergillus and mycotoxins, not required to be tested in those finished products. If this petition is approved, the testing requirement for finished products such as infused edibles, infused non-edibles, topicals and infused pre-rolls must be amended to include testing for these parameters.
Petition: Adjust the process for research and development to no longer require approval from the CCB to begin investigating new products and processes. Currently, in order for research and development to begin the CCB needs to not only review any and R&D request applications but also grant approval to such a request. We believe this amendment will help expedite the process for a quickly evolving industry to better innovate and meet consumer demands

3

Response:
The lab industry takes no position on Silver State's proposed amendment.

Petition: This petition is primarily focused on streamlining the cannabis testing process.
Response:
As a cannabis testing lab, we respectfully submit that the Silver State has failed to demonstrate how the proposed amendments will streamline the testing process. In response, we recommend the CCB schedule an industry-wide workshop to explain the testing process and request clarification of NCCR's which are neither scientifically based nor generally applied to all

cannabis testing labs.
It is obvious that the cannabis industry in the state of Nevada is struggling, and many cannabis entities including cultivators, producers, dispensaries and independent laboratories are hurting financially; however, any changes must not be made to help only certain sectors of the businesses in the industry (cultivators and producers) and at expense of others (publica safety and independent testing laboratories). More importantly, the primary focus of this petition is not to streamline the testing process, but an attempt to reduce the financial or economic burden off of cultivators and producers while at the same time jeopardizing the quality and safety of the cannabis product.

Petition: These changes will allow Nevada's cannabis cultivation and production facilities to simplify their procedures, reduce the number of manual steps, and clarify what gets tested and when.
Response:
The Petition should be denied as it fails to account for the impact these changes will have on the public safety and the testing lab industry. Additionally, the CCB should deny the petition based on a clear failure to adhere to the requirements set forth in NCCR 4.145(4) – no statement identifying the specific regulation(s) in question; a clearly drafted amendment to a specific regulation; a statement identifying what persons or groups will be affected by the amendment and how they will be affected.
Based on the points raised herein, it is clear that the said petition will impact all of Nevada's cannabis independent testing labs, as well as the safety for cannabis consumers and patients. Such a move will not only not streamline the testing process but could, in actuality, be detrimental and dangerous to the industry and the public.

Petition: As these changes are designed to streamline operations, a positive impact on the operations of Nevada's cultivation and production licenses can be expected. Cannabis distribution and retail cannabis store licenses will likely see no tangible changes to their operations from this proposed regulatory change.

4

Response:
The above referenced statement is intentionally misleading as it completely ignores the fact that the proposed amendments will directly and adversely impact the cannabis testing lab industry and public safety if adopted. Moreover, it demonstrates a clear ignorance of the costs associated with operating a cannabis testing lab. Specifically, the cost of the instrumentation used in labs, the expense of hiring and maintaining highly educated scientist, and the licensing costs imposed on cannabis establishments.
Additionally, the proposed amendments fail to consider the fact that cannabis testing labs and the industry have developed operating procedures based on the legislatively required 5 lb lot standard. Should they be adopted, the testing labs will be forced to incur exorbitant expenses to modify their business model to in order to meet the expanded lot size.

Petition: Cannabis testing laboratories may need to change operations around testing cannabis products and may need to increase sample sizes in conjunction with any change in testing practice.
Response:
The petition fails to consider the potential substantial economic impact these changes will have on the cannabis industry and consumers. More specifically, said changes will require cannabis testing labs to make extensive modifications to their instrumentation and operating procedures, undergo re-certification with ISO and, it will require CCB inspection and approval, the cost of

which will be passed on to the cultivator/producer and ultimately the consumer.

Petition: As the Sierra Cannabis Coalition has presented this year, Nevada's cannabis licenses are having their most difficult year yet.
Response:
“Most difficult year yet” is not limited to the cultivation/production only, but universally applicable to all sectors of the Nevada cannabis industry. The independent cannabis testing labs respectfully request that Silver State identify the members of the Sierra Cannabis Coalition. In order for the CCB and the cannabis testing labs to better understand the basis for the representations made in the petition as in most instances it is inaccurate or otherwise misleading. More specifically, the petition ignores the fact that over the past years the cannabis testing labs have consistently not been paid for the testing services provided to Nevada’s cultivators and producers. As a cannabis testing lab, we urge the CCB to exam those non-payment (as it is a Category V violation. See, NCCR 4.060(1)(a)(8)). Silver State’s petition ignores this fact and seeks only to financially aid Sierra Cannabis Coalition “members.”

Petition: Many businesses have reported they are not sure if they can make it another year. With inflation, workforce issues, the struggles with 280E, and the increase in interest rates Nevada's cannabis operators need a change to bring economic relief.

5

Response:
Silver State’s representation completely ignore the financial impact these amendments, if adopted, will have on the testing lab industry and the safety for the public. Said myopic views is self-serving and flies directly in the face of the legislative directive that the CCB consider the fiscal impact a regulatory change will have on all members of the cannabis industry before adoption. Moreover, it intentionally misleads the CCB to think that only cultivators and producers are financially struggling without disclosing the fact that a significant number of them fail to pay for quality assurance tests mandated by the CCB. As necessary, the cannabis testing labs will be able to present evidence demonstrating the consistent practices of cultivators/producers not paying for testing services and the impact that it has had on the lab industry.

Petition: This petition was crafted with the economic concerns of the members of the Sierra Cannabis Coalition, please take those concerns to heart as you discuss and consider the needed changes to the NCCR.
Response:
Silver State should be required to disclose the “members” of the Sierra Cannabis Coalition in order for the CCB to determine whether a complaint has been filed against them for failure to pay for testing services.

MA Analytics Lab thanks the CCB for the efforts in providing Nevada cannabis industry with a safe operating environment.

Sincerely,

Francis Jordan
Scientific Director
Ma Analytics lab

To Whom It May Concern:

Re: CCB Petition Submitted by Sierra Cannabis Coalition

On October 28, 2022, Silver State Government Relations filed a petition with the CCB requesting amendments to various NCCR's that directly impact independent testing labs in Nevada. The petition has been added to the CCB's November agenda (11/15/22) for consideration.

NV CANN LABS, LLC opposes this petition for the following reasons:

Petition: *Adjusting lot sizes upwards from the current five pounds for flower and 15 pounds for trim to 50 pounds for each. In speaking with licensees, between 5% and 10% of the final retail cost of cannabis can be traced back to laboratory testing expenses. In reviewing other western states, nearly all have either a higher testing threshold or test an entire harvest similar to our batch. California and Oregon have a limit of 50 pounds, whereas Colorado tests by the total harvest. Earlier this year, Washington removed their five pound lot limit for testing and, instead, based their testing samples on harvest size through a sliding scale of up to 50 pounds. Having five and 15 pounds lot sizes definitions restricts operators into breaking down single batches into multiple lots. This means additional labor costs related to separating the batches into multiple lots, separately bagging each lot, test each lot and in many instances recombining each lot when the final cannabis product is ultimately sold. All of this creates an additional burden on the licensee requesting the test and, ultimately, an additional cost accounted for in the final retail price.*

Response:
The expansion of the required lot size to fifty pounds creates a significant reduction in an accurate assessment of the product regarding consumer safety by providing less than 0.1% of the lot. This is not a scientifically sound method of collecting a truly representee sample. Scientific literature has and continues to encourage sampling to be of smaller lot sizes, or multiple samples from larger lots. If the lot size is to increase to fifty pounds, it should be required that several samples are taken from the lot rather than just one sample from each lot.

Additionally, it is the responsibility of the labs to provide the most accurate methods of testing for consumer safety, and the state's responsibility to ensure regulations are in place to allow the labs to do so. Increasing the lot size to fifty pounds does not follow this moral and ethical obligation.

Furthermore, it is stated in this petition testing fees are 5% - 10% of the cost, which is inaccurate and varies depending on each private lab and cultivators operating costs and profits.

It is understood that smaller lot sizes may increase the labor costs and burden of the cultivator; however, the safety of the consumer far outweighs this burden.

Aside from consumer safety, it can be argued that the cultivator may be taking on additional costs and burden with smaller lot sizes, but the labs take a huge loss with increased lot sizes, to

the extent in which many labs may be put out of business due to the loss and there will not be a testing infrastructure large enough to support the current volume of cultivators in Nevada.

Petition: *Revise the definition of a "production run" to not include a specific amount of concentrated cannabis, but instead indicate. Similar to the lot size for flower and trim, this current definition requires cannabis extracts to be tested in 2.2 pound increments, a threshold not found in any other state. This results in a process where, again, single production runs have to be separated into 2.2 pound increments, each tested, and again usually recombined for the creation of any final cannabis product.*

Response:
The same reasons described above apply to this petition. It should be re-emphasized that consumer safety far outweighs the minimal cost and burden to the cultivator due to smaller lot sizes and compromises the integrity of accurate and scientifically sound lab testing.

Petition: *Change when cannabis products must be sent to testing. Currently, a cannabis product will need to be sent to testing at every step of the process. We believe this is redundant. Instead of requiring testing along the many steps of the process, testing for cannabis products should be done once the end cannabis product has reached its final form as ultimately that final test is the one protecting the consumer.*

Response:
This request lacks scientific evidence supporting the claim that it is unnecessary to test at each stage of the production process. In fact, there is significant scientific evidence that has been used to outline the testing process in food safety regulations, which includes testing at multiple stages of production. Removing this requirement, once again, would compromise the safety of the consumer.

The testing requirements for concentrates and other infusions that are used for a final product such as an edible or tincture are different than the testing required for the final product. Removing the testing throughout the process will remove the guarantee that the product is truly safe. Therefore, if this change is made, it must be considered to require a full testing package for each final product.

Petition: *Adjust the process for research and development to no longer require approval from the CCB to begin investigating new products and processes. Currently, in order for research and development to begin the CCB needs to not only review any and R&D request applications but also grant approval to such a request. We believe this amendment will help expedite the process for a quickly evolving industry to better innovate and meet consumer demands*

Response:
The lab industry takes no position on Silver State’s proposed amendment.

Petition: *This petition is primarily focused on streamlining the cannabis testing process.*

Response:
Respectfully, this petition has not demonstrated how these changes would streamline the testing process, rather have shown how consumer safety is perceived and not understood fully by cultivators and producers. It is also clear that the primary focus of this petition is to remove the cost and burden from the cultivators and producers, while not considering the harm these requests would cause to the consumer and the labs.

It has become well known that the cannabis industry has changed drastically and negatively impacted many entities within the industry. As we all work together to evolve the cannabis industry, consumer safety should *never* be compromised, and changes should not be made that will benefit one entity while harming others.

Petition: *These changes will allow Nevada's cannabis cultivation and production facilities to simplify their procedures, reduce the number of manual steps, and clarify what gets tested and when.*

Response:
The Petition should be denied as it fails to account for the impact these changes will have on the public safety and the testing lab industry. Additionally, the CCB should deny the petition based on a clear failure to adhere to the requirements set forth in NCCR 4.145(4) – no statement identifying the specific regulation(s) in question; a clearly drafted amendment to a specific regulation; a statement identifying what persons or groups will be affected by the amendment and how they will be affected.

Based on the points raised herein, it is clear that the said petition will impact all of Nevada's cannabis independent testing labs, as well as the safety for cannabis consumers and patients. Such a move will not only not streamline the testing process but could, in actuality, be detrimental and dangerous to the industry and the public.

Petition: *As these changes are designed to streamline operations, a positive impact on the operations of Nevada's cultivation and production licenses can be expected. Cannabis distribution and retail cannabis store licenses will likely see no tangible changes to their operations from this proposed regulatory change.*

Response:
This statement does not consider the impact that would be made on the consumer, most importantly, or the cannabis testing labs and provides further reasoning to deny this petition. It is clear there is a lack of education regarding the costs of operating a testing lab and an incredible lack of education regarding consumer safety among cultivators and producers.

Petition: *Cannabis testing laboratories may need to change operations around testing cannabis products and may need to increase sample sizes in conjunction with any change in testing practice.*

Response:
This statement is hypocritical to what the petitioner is requesting. The petitioner requests these changes to remove costs and burden on the cultivator or producer but encourages significant additional costs and burden to be placed on the lab if the changes requested were to be implemented.

Petition: *As the Sierra Cannabis Coalition has presented this year, Nevada's cannabis licenses are having their most difficult year yet.*

Response:
"Most difficult year yet" is not limited to the cultivation/production only, but universally applicable to all sectors of the Nevada cannabis industry. The independent cannabis testing labs respectfully request that Silver State identify the members of the Sierra Cannabis Coalition. In order for the CCB and the cannabis testing labs to better understand the basis for the representations made in the petition as in most instances it is inaccurate or otherwise misleading. More specifically, the petition ignores the fact that over the past years the cannabis testing labs have *consistently not been paid for the testing services* provided to Nevada's cultivators and producers. As a cannabis testing lab, we urge the CCB to exam those non-payments (as it is a Category V violation. See, NCCR 4.060(1)(a)(8)). Silver State's petition ignores this fact and seeks only to financially aid Sierra Cannabis Coalition "members."

Petition: *Many businesses have reported they are not sure if they can make it another year. With inflation, workforce issues, the struggles with 280E, and the increase in interest rates Nevada's cannabis operators need a change to bring economic relief.*

Response:
Silver State's representation completely ignores the financial impact of these amendments, if adopted, will have on the testing lab industry and the safety for the public. Said myopic views is self-serving and flies directly in the face of the legislative directive that the CCB consider the fiscal impact a regulatory change will have on all members of the cannabis industry before adoption. Moreover, it intentionally misleads the CCB to think that only cultivators and producers are financially struggling without disclosing the fact that a significant number of them fail to pay for quality assurance tests mandated by the CCB. As necessary, the cannabis testing labs will be able to present evidence demonstrating the consistent practices of cultivators/producers not paying for testing services and the impact that it has had on the lab industry.

Petition: *This petition was crafted with the economic concerns of the members of the Sierra Cannabis Coalition, please take those concerns to heart as you discuss and consider the needed changes to the NCCR.*

Response:
Silver State should be required to disclose the "members" of the Sierra Cannabis Coalition in order for the CCB to determine whether a complaint has been filed against them for failure to pay for testing services.

NV CANN LABS, LLC thanks the CCB for the efforts in providing the Nevada cannabis industry with a safe operating environment.

Sincerely,

Niki Barber
Chief Scientific Officer
NV CANN LABS, LLC

Silver State Government Relations

Principals
Will Adler – will@ssgr.us
Ernie Adler – eealaw@gmail.com

Associates
Morgan Biaselli – morgan@ssgr.us
Alex Tanchek – alex@ssgr.us

November 15, 2022

Chair Douglas and Members of the Cannabis Compliance Board,

The Sierra Cannabis Coalition is contacting the Cannabis Compliance Board, as before, to bring forward issues of economic concern within Nevada's Cannabis industry. The petition filed by the Sierra Cannabis Coalition asks for changes to NCCRs 1, 6, and 11, in order to restructure how Nevada's cannabis operators prepare cannabis prior to and after quality assurance testing has been completed. These changes are targeted at bringing Nevada's current testing standards into alignment with sampling sizes seen in other western cannabis states.

Nevada's Cannabis program is one of the most detailed and well-thought-out programs in the nation, but at the same time, it is one of the oldest. Nevada's regulatory framework, while recently reinstated by the CCB, has remained much the same as it was during Nevada's Medical Marijuana program. Many of the practices implemented were thought of as "best practices" at the time and have established the standard we refer to as the gold standard today. These standards are commendable and should be kept in place, but while Nevada's procedures have remained the same, other states have made adaptations that increase efficiency for the cultivators, testers, and regulators.

During its Medical Marijuana program, Colorado used a cannabis testing program more similar to the one seen in Nevada today. That program wasn't found to be sufficiently flexible for the cultivations operating in Colorado's program. To create greater flexibility around testing batches, Colorado changed its definition for "harvest batch" to the one found in their regulations today:

> *"Harvest Batch" means a specifically identified quantity of processed Regulated Marijuana that is uniform in strain, cultivated utilizing the same Pesticide and other agricultural chemicals and harvested at the same time. A Harvest Batch may also include a Manicure Batch that was harvested prior to the creation of the Harvest Batch.*

As one can see, Colorado makes no mention of weight when referencing a cultivator's harvest batch, as their restrictions are targeted at the environment the cannabis was grown in. When requesting testing, a cultivator simply requests testing for each Harvest Batch as, similar to Nevada's "Batches", the cannabis of a single Harvest Batch must be of a single strain, grown in and cultivated utilizing the same pesticides, and harvested at the same time. California, Oregon, and Washington have all adopted language with much the same purpose: testing cannabis based on the environment it was grown in rather than by pound. To ensure Nevada's quality assurance

test still reflects its original structure, no changes to Nevada's stringent standards for yeast and mold, pesticides, heavy metals, or any other "safety standard" were asked to be changed.

All regulatory changes requested in the Sierra Cannabis Coalition petitions have similar references to regulations found in other western cannabis states. In Washington "Usable Cannabis" no longer needs to complete its quality control testing if it is deemed for extraction, a practice similar in many states. Regionally, research and development testing is universally embraced, and the small change requested will allow for additional innovation in Nevada. Nationally, Nevada is the only State with a weight-based limit for concentrated cannabis testing. The change to the definition of a production run is intended to correct this oversight in Nevada's regulations. As a production run is sensibly:

> *Any amount of concentrated cannabis of the same product type, made with any combination of usable cannabis material, that uses a single extraction method.*

The Sierra Cannabis Coalition proposes Nevada's regulations should reflect that reality. Nevada should allow production facilities to test based on the output of their machines rather than in arbitrary 2.2-pound increments.

The petition before you is not a perfect document. It is the compilation of cannabis operators' concerns over cannabis testing in Nevada, translated into regulatory recommendations. Sierra Cannabis Coalition asks to open a regulatory workshop to discuss our member's concerns over cannabis testing in Nevada. This workshop will allow Nevada's cannabis operators an opportunity long waited for, a chance to discuss with its regulators what best practices should be when testing cannabis in Nevada.

Thank you,

Will Adler
Director
Sierra Cannabis Coalition

Exhibit

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Colorado Regulations

b. The Licensee or Applicant has failed to comply with any special terms or conditions that were placed upon the license pursuant to an order of the State Licensing Authority or the relevant local jurisdiction; or

c. The Licensee's Licensed Premises have been operated in a manner that adversely affects the public health or welfare or the safety of the immediate neighborhood in which the establishment is located.

"Good Moral Character" means having a criminal history that demonstrates honesty, fairness, and respect for the rights of others and for the law.

"Greenhouse" means a hoop house or other structure with non-rigid walls that utilizes natural light, in whole or in part, for the cultivation of Regulated Marijuana.

"Harvest Batch" means a specifically identified quantity of processed Regulated Marijuana that is uniform in strain, cultivated utilizing the same Pesticide and other agricultural chemicals and harvested at the same time. A Harvest Batch may also include a Manicure Batch that was harvested prior to the creation of the Harvest Batch.

"Harvested Marijuana" means Regulated Marijuana flower reported as a package in the Inventory Tracking System or post-harvest Regulated Marijuana not including wet whole plant, trim, concentrate, waste, or Fibrous Waste that remains on the premises of the Medical Marijuana Cultivation Facility or Retail Marijuana Cultivation Facility or its off-premises storage location beyond 90 days from harvest.

"Heat/Pressure-Based Medical Marijuana Concentrate" means a Medical Marijuana Concentrate that was produced by extracting Cannabinoids from Medical Marijuana through the use of heat and/or pressure. The method of extraction may be used by only a Medical Marijuana Products Manufacturer and can be used alone or on a Production Batch that also includes Physical Separation-Based Medical Marijuana Concentrate or Solvent-Based Medical Marijuana Concentrate.

"Heat/Pressure-Based Retail Marijuana Concentrate" means Retail Marijuana Concentrate that was produced by extracting Cannabinoids from Retail Marijuana through the use of heat and/or pressure. This method of extraction may be used by only a Retail Marijuana Products Manufacturer and can be used alone or on a Production Batch that also includes Physical Separation-Based Retail Marijuana Concentrate or Solvent-Based Retail Marijuana Concentrate.

"Identification Badge" means a physical badge issued by the Division to any natural person possessing an Owner License or Employee License, used to verify the identity and license status of the natural persons on the Licensed Premises of a Regulated Marijuana Business.

"Identity Statement" means the name of the business as it is commonly known and used in any Advertising.

"Immature plant" means a nonflowering marijuana plant that is no taller than eight inches and no wider than eight inches produced from a cutting, clipping or seedling and is in a cultivating container.

"Indirect Financial Interest Holder" means a Person that is not an Affiliate, a Controlling Beneficial Owner, or a Passive Beneficial Owner of a Regulated Marijuana Business and that:

a. Holds a Commercially Reasonable Royalty in exchange for a Regulated Marijuana Business's use of the Person's intellectual property;

"Production Batch" means (a) any amount of Regulated Marijuana Concentrate of the same category and produced using the same extraction methods, standard operating procedures and an identical group of Harvest Batch(es) of Medical Marijuana or Retail Marijuana; or (b) any amount of Regulated Marijuana Product of the same exact type, produced using the same Ingredients, standard operating procedures, and the same Harvest Batch(es) of Harvested Marijuana (single strain or multiple strain) and/or Production Batch(es) of Regulated Marijuana Concentrate; or (c) any amount of Pre-Rolled Marijuana or Infused Pre-Rolled Marijuana of the same exact type, produced using the same ingredients, standard operating procedures, and the same Harvest Batch(es) of Regulated Marijuana Concentrate.

"Professional Engineer" means a natural person who is licensed by the State of Colorado as a professional engineer pursuant to sections 12-25-101 *et seq.*, C.R.S.

"Proficiency Testing" means an assessment of the performance of a Medical Marijuana Testing Facility's or Retail Marijuana Testing Facility's methodology and processes. Proficiency Testing is also known as inter-laboratory comparison. The goal of Proficiency Testing is to ensure results are accurate, reproducible, and consistent.

"Propagation" means the reproduction of Regulated Marijuana plants by seeds, cuttings, or grafting.

"Public Institution," for purposes of the 5-700 Series Rules, means any entity established or controlled by the federal government, a state government, or a local government or municipality, including but not limited to an institution of higher education or a public higher education research institution.

"Public Money," for purposes of the 5-700 Serie Rules, means any funds or money obtained by the holder from any governmental entity, including but not limited to research grants.

"Publicly Traded Corporation" means any Person other than an individual that is organized under the laws of and for which its principal place of business is located in one of the states or territories of the United States or District of Columbia or another country that authorizes the sale of marijuana that:

a. Has a class of Securities registered pursuant to 15 U.S.C. sec. 77a et seq., that:

   i. Constitutes Covered Securities; or

   ii. Is qualified and quoted on the OTCQX or OTCQB tier of the OTC markets if:

      A. The Person is then required to file reports and is filing reports on a current basis with the Federal Securities Exchange Commission pursuant to 15 U.S.C. sec. 78a et seq., as if the Securities constituted Covered Securities; and

      B. The Person has established and is in compliance with corporate governance measures pursuant to corporate governance obligations imposed on Securities qualified and quoted on the OTCQX tier of the OTC markets.

b. Is an Entity that has a class of Securities listed on the Canadian Securities Exchange, Toronto Stock Exchange, TSX Venture Exchange, or NEO Exchange, if:

"Sample Increment" means a single portion or unit that is removed from a Harvest Batch or Production Batch by a Designated Test Batch Collector for the creation of a Test Batch. For Harvest Batches, a Sample Increment shall be 500 milligrams of flower or trim. For Regulated Marijuana Products, Audited Products, and Alternative Use Products, a Sample Increment shall be a single serving of the product as defined by the Medical Marijuana Products Manufacturer or Retail Marijuana Products Manufacturer, but shall contain no more than 10 milligrams of active THC per serving for Edible Retail Marijuana Products. For Regulated Marijuana Concentrate, a Sample Increment shall be 250 milligrams of concentrate.

"Sample Increment Collection" means the gathering of Sample Increments to combine into a larger, composite Test Batch.

"Sampling Manager" means an Owner Licensee or management personnel holding an Employee Licensee designated by a Medical Marijuana Cultivation Facility, Medical Marijuana Products Manufacturer, Retail Marijuana Cultivation Facility, or Retail Marijuana Products Manufacturer to receive Transfers of Sampling Units pursuant to Rules 5-230, 5-320, 6-225, and 6-320.

"Sample Plan" means a written, documented plan generated by Designated Test Batch Collector(s) in line with the Regulated Marijuana Business' Standard Operating Procedure for Sample Increment Collection.

"Sampling Unit" means a unit of Regulated Marijuana Transferred to a Sampling Manager for purposes of quality control and product development pursuant to Rules 5-230 and 5-320, sections 44-10-502(4) and 44-10-503(10), C.R.S., and Rules 6-225 and 6-320, and sections 44-10-602(6) and 44-10-603(10), C.R.S.

"Security(ies)" means any note, stock, treasury stock, security future, security-based swap, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security, fractional undivided interest in oil, gas, or other mineral rights, any put, call, straddle, option, or privilege on any security, certificate of deposit, or group index of securities (including any interest therein or based on the value thereof), or any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency, or, in general, any interest or instrument commonly known as a "security," or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing.

"Security Alarm System" means a device or series of devices, intended to summon law enforcement personnel during, or as a result of, an alarm condition. Devices may include hard-wired systems and systems interconnected with a radio frequency method such as cellular or private radio signals that emit or transmit a remote or local audible, visual, or electronic signal; motion detectors, pressure switches, duress alarms (a silent system signal generated by the entry of a designated code into the arming station to indicate that the user is disarming under duress); panic alarms (an audible system signal to indicate an emergency situation); and hold-up alarms (a silent system signal to indicate that a robbery is in progress).

"Shell Company" means a registrant, other than an asset-backed issuer as defined in Item 1101(b) of Regulation AB, that has:

a. No or nominal operations; and

b. Either:

i. No or nominal operations;

4. Timing of Sample Increments for Harvest Batches and Production Batches. A Licensee shall not collect Sample Increments or submit Test Batches for testing until the Test Batch has completed all required steps and is in its final form as outlined in the standard operating procedures of the Licensee submitting the Test Batch, with the exception of packaging and labeling requirements which shall comply with Rule 3-1025.

    a. The following examples illustrate various methods, which are not limited to those listed herein, that a Licensee's standard operating procedures may include to verify a Test Batch completed all required steps and is in its final form pursuant to this Rule:

        i. The Licensee's standard operating procedures may include procedures that ensure the addition of all Ingredients or Additives has occurred and that the Harvest Batch or Production Batch associated with the Test Batch is completely ready to be packaged pending results of testing required by these Rules. It may also include creating pre-rolled joints from the Harvest Batch or Production Batch;

        ii. For a Production Batch of Concentrate, the Licensee's standard operating procedure may include procedures that ensure the entire Production Batch associated with the Test Batch has completed all sifting, extracting, purging, winterizing, and steps to remove plant pigments and ensuring the addition of all Ingredients and Additives has occurred.

        iii. For a Production Batch of Regulated Marijuana Product, the Licensee's standard operating procedure may include procedures that ensure the addition of all Ingredients and Additives has occurred and the Production Batch associated with the Test Batch is completely ready to be packaged pending results of testing required by these Rules.

    b. A Test Batch from a Harvest Batch or Production Batch shall be packaged and labeled according to Series 3-1025 prior to Transfer to a Regulated Marijuana Testing Facility.

    c. This Rule 4-110(A)(4) does not apply for the submission of Test Batches submitted for R&D testing.

5. Vaporizer Delivery Device. This subsection (A)(5) is effective January 1, 2022. Retail Marijuana Concentrate that has been placed into a Vaporizer Delivery Device must be sampled and tested using a methodology that allows the laboratory to analyze the emission of the contents of the Vaporizer Delivery Device.

B. Designated Test Batch Collector Training, Documentation, and Designation.

1. Required Sample Increment Collection Training. To become a Designated Test Batch Collector an Owner Licensee or Employee Licensee involved in the Sample Increment Collection of Regulated Marijuana must be designated by a manager or Owner Licensee as such and must also complete either in-house training provided by the Regulated Marijuana Business or training from a third-party vendor. Nothing in this rule requires a Designated Test Batch Collector to be employed by the Regulated Marijuana Business making the designation.

2. Designated Test Batch Collection Training Required Topics. The training required to become a Designated Test Batch Collector must include at least the following topics:

a. Part 4–100 Rule Series - Regulated Marijuana Testing Program;

b. The Marijuana Business's standard operating procedures on creating a Sampling Plan and Test Batches, and the CDPHE's Sampling Procedures.

c. "Guidance on Marijuana Sampling Procedures" Training Video or an equivalent training covering the following subjects:

i. Introduction to Sample Increment Collection:

A. Cross contamination as it relates to Sample Increment Collection;

B. Sample Increment Collection and how it works;

C. Sample Increment Collection documentation and record keeping requirements;

D. Penalties for Sample Increment or Test Batch adulteration or alteration;

E. Use of and disinfection of the Designated Sample Collection Area; and

F. Use of the Sample Plan.

3. Documentation of Designated Test Batch Collector Training. Any individual receiving the Designated Test Batch Collector training must sign and date a document which shall be maintained by the Regulated Marijuana Business as a business record pursuant to Rule 3-905. The document must acknowledge the following:

a. The identity of the Person that created the training, such as the Regulated Marijuana Business or a third-party vendor; and

b. That all required topics of the training identified in this Rule have been reviewed and understood by the Owner Licensee or Employee Licensee.

C. Test Batch Collection Requirements.

1. Required Minimum of Two Test Batch Collectors. At a minimum, two Designated Test Batch Collectors shall be involved in the collection of Sample Increments such that at least one Designated Test Batch Collector is responsible for collecting the Sample Increments and another Designated Test Batch Collector is responsible for reviewing documentation associated with the collection of Sample Increments in a timely manner and prior to any Transfer of the Production Batch or Harvest Batch from which Sample Increments were collected. This review can be completed in person or may be completed remotely by reviewing image(s) of the Test Batch and associated documentation.

2. Sample Plan Required. A Designated Test Batch Collector must establish a Sample Plan consistent with the Regulated Marijuana Business's Standard Operating Procedure for Sample Increment Collection. At a minimum, a Sample Plan must include the following:

a. The date, amount or weight, and specific location for each Sample Increment collected;

b. Identification of and acknowledgements from all Designated Test Batch Collectors involved in the Sample Increment Collection; and

c. If applicable, the strain name(s) for each Harvest Batch from which Sample Increments are collected.

D. Minimum Number of Sample Increments Per Test Batch Submission. These sampling rules shall apply until such time as the State Licensing Authority revises these rules to implement a statistical sampling model. Unless a greater amount is required to comply with these rules or is required by a Regulated Marijuana Testing Facility to perform all requested testing, each Test Batch of Regulated Marijuana must contain at least the number of Sample Increments prescribed by this Section.

1. A Test Batch of Regulated Marijuana must be packaged and labeled according to Rule 3-1025.

2. The minimum number of Sample Increments required to be collected for each Test Batch from a Harvest Batch of Retail Marijuana or Medical Marijuana shall be determined by Table 4-110.C.2.T.

3. The minimum number of Sample Increments required to be collected for each Test Batch from a Production Batch of Retail Marijuana Product, Medical Marijuana Product, Audited Product and Alternative Use Product shall be determined by Table 4-11-C.2.T.

   a. The Retail Marijuana Products Manufacturer or Medical Marijuana Products Manufacturer shall determine what constitutes a “Serving” and thus how many Servings are contained in a Production Batch, except that no serving of Edible Retail Marijuana Product can contain more than 10mg of active THC

   b. Because all Test Batches of Retail Marijuana of Retail Marijuana Product and Medical Marijuana Product are required to be submitted for testing in their final form, in the event the required number of Sample Increments does not match up within a finished package, the manufacturer must increase the number of Sample Increments collected for the Test Batch such that only finished packages of Regulated Marijuana Products are submitted for testing. For example if a Production Batch of 4000 chocolate bars is manufactured, with each bar containing 100 mg THC and 10 servings per bar, the Production Batch would contain 40,000 Sample Increments which would require collection of at least 33 Sample Increments per Test Batch. But in this case, the manufacturer would have to collect 40 Sample Increments for testing (4 complete chocolate bars in final form).

   c. No matter how small the Production Batch of Retail Marijuana Product, or Medical Marijuana Product, a minimum of two finished packages in final form must be submitted for a Test Batch.

4. The minimum number of Sample Increments required to be collected for each Test Batch from a Production Batch of Retail Marijuana Concentrate or Medical Marijuana Concentrate shall be determined by Table 4-110-C.2.T.

a. Because all Test Batches of Retail Marijuana Concentrate and Medical Marijuana Concentrate are required to be submitted for testing in their final form, in the event the required number of Sample Increments does not match up with the number of Sample Increments in a finished package, the manufacturer must increase the number of Sample Increments collected for the Test Batch such that only finished packages of Marijuana Concentrate are submitted for testing. For example, if a Production Batch of 4,000 Vaporizer Delivery Devices is manufactured, with each Vaporizer Delivery Device containing 500 milligrams of Marijuana Concentrate, the Production Batch would contain 2,000 grams of Marijuana Concentrate, which would require collection of at least 15 Sample Increments per Test Batch. But in this case, the manufacturer would have to collect 16 Sample Increments for testing (8 vaporizer Delivery Devices in final form).

b. No matter how small the Production Batch of Retail Marijuana Concentrate or Medical Marijuana Concentrate, a minimum of two finished packages must be submitted for a Test Batch.

Table 4-110.C.2.T

Minimum Number of Sample Increments Required to be Collected per Test Batch	**Regulated Marijuana**			**Regulated Marijuana Concentrate**			**Regulated Marijuana Product**	
	Total Weight of Harvest Batch (lbs)	Total Weight of Harvest Batch (grams)	**Minimum Weight of Test Batch (grams)**	Total Weight of Production Batch (lbs)	Total Weight of Production Batch (grams)	**Minimum Weight of Test Batch (grams)**	Number of Servings within Production Batch	**Minimum Number of Units for a Test Batch for a 10 Serving Unit**
5	0.000 - 0.999	0.0 - 435.5	**2.50**	0.000 - 0.999	0.0-453.5	**1.25**	0 - 99	**2**
8	1.00 - 9.999	435.6 - 4535.9	**4.00**	1.00 - 1.999	453.6-907.1	**2.00**	100 - 999	**2**
15	10.000 - 19.999	4536.0 - 9071.8	**7.50**	2.00 - 4.999	907.2-2267.9	**3.75**	1000 - 4999	**2**
22	20.000 - 39.999	9071.9 - 18143.6	**11.00**	5.000 - 14.999	2268.0-6803.8	**5.50**	5000 - 9999	**3**
33	40.000 - 99.999	18143.7 - 45359.2	**16.50**	15.000 – 49.999	6803.9-22679.6	**8.25**	10000 - 49999	**4**
43	100.000 - 199.999	45359.3 - 90718.4	**21.50**	50.000 – 99.999	22679.7-45359.2	**10.75**	50000 - 99999	**5**

53	200.000 - 499.999	90718.5 - 226796.1	**26.50**	100.000 – 249.999	45359.3- 113398.0	**13.25**	100000 - 249999	**6**
80	500 or more	226796.2 or more	**40.00**	250 or more	113398.1 or more	**20.00**	250000 or more	**8**

D. Regulated Marijuana Testing Facility Selection. Unless otherwise restricted or prohibited by these rules or ordered by the State Licensing Authority, a Regulated Marijuana Business may select which Medical Marijuana Testing Facility or Retail Marijuana Testing Facility will test a Test Batch made up of Sample Increments collected pursuant to this Rule. However, the Division may elect, at its sole discretion, to assign a Regulated Marijuana Testing Facility to which a Regulated Marijuana Business must submit for testing any Test Batch made up of Sample Increments collected pursuant to this Rule.

E. Industrial Hemp Product Sampling Procedures. Absent sampling and testing standards established by the Colorado Department of Public Health and Environment for the sampling and testing of Industrial Hemp Product, a Person Transferring an Industrial Hemp Product to a Licensee pursuant to the Marijuana Code and these Rules shall comply with the sampling and testing standards set forth in these 4-100 Series Rules – Regulated Marijuana Testing Program and as required by these Rules.

F. Violation Affecting Public Safety. Failure to comply with this Rule may constitute a license violation affecting public safety.

Basis and Purpose – 4-115

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(a), 44-10-203(1)(c), 44-10-203(1)(g), 44-10-203(1)(j), 44-10-203(2)(d), 44-10-203(2)(f), 44-10-203(3)(d), 44-10-203(3)(e), 44-10-501(6), 44-10-502(3), 44-10-503(8), 44-10-504(1)(b), 44-10-504(2), 44-10-601(4), 44-10-602(4), 44-10-603(6), 44-10-604(1)(b), and 44-10-604(2), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VII). The purpose of this rule is to establish the portion of the Division's mandatory testing and sampling program that is applicable to Regulated Marijuana Businesses, and specifically Medical Marijuana Testing Facilities and Retail Marijuana Testing Facilities. While the Marijuana Code requires the State Licensing Authority to establish acceptable limits of potential contaminants, it also requires the State Licensing Authority to enact a plus or minus 15 percent potency variance, which is also included in this rule. This Rule 4-115 was previously Rules M and R 712, 1 CCR 212-1 and 1 CCR 212-2.

4-115 – Regulated Marijuana Testing Program: Sampling and Testing Program

A. Division Authority. The Division may require that a Test Batch be submitted to a specific Regulated Marijuana Testing Facility for testing to verify compliance, perform investigations, compile data or address a public health and safety concern.

1. Independent Third Party Review. The Division may require Regulated Marijuana to undergo an independent third-party review to verify that the Regulated Marijuana does not pose a threat to public health and safety when the Division, in consultation with the Colorado Department of Public Health and Environment, has objective and reasonable grounds to believe and finds, upon a full investigation, one of the following:

a. The Regulated Marijuana contains one or more substances known to cause harm; or

Exhibit

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Washington Regulations

WAC 246-70-030 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Allowed pesticide" means a pesticide registered by the Washington state department of agriculture under chapter 15.58 RCW as allowed for use in the production, processing, and handling of marijuana.

(2) "Batch" means a quantity of marijuana-infused product containing material from one or more lots of marijuana.

(3) "CBD concentration" means the percent of cannabidiol content per dry weight of any part of the plant *Cannabis*, or per volume or weight of marijuana product.

(4) "Certified third-party testing lab" means a laboratory certified by the WSLCB or its vendor under WAC 314-55-102.

(5) "Database" means the medical marijuana authorization database created pursuant to RCW 69.51A.230.

(6) "Department" means the Washington state department of health.

(7) "Designated provider" has the same meaning as RCW 69.51A.010(4).

(8) "Harvest" means the marijuana plant material derived from plants of the same strain that were brought into cultivation at the same time, grown in the same manner and physical space, and gathered at the same time.

(9) "Imported cannabinoid" means any cannabinoid derived of the plant *Cannabis* with a THC concentration 0.3 percent or less that is not produced by a licensed marijuana producer.

(10) "Intermediate product" means marijuana flower lots or other material lots that have been converted by a marijuana processor to a marijuana concentrate or marijuana-infused product that must be further processed prior to retail sale.

(11) "Lot" means either of the following:

(a) The flowers from one or more marijuana plant(s) of the same strain. A single lot of flowers cannot weigh more than allowed by the WSLCB in chapter 314-55 WAC; or

(b) The trim, leaves, or other plant matter from one or more marijuana plant(s). A single lot of trim, leaves, or other plant matter cannot weigh more than allowed by the WSLCB in chapter 314-55 WAC.

(12) "Marijuana" means all parts of the plant *Cannabis*, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

(13) "Marijuana concentrates" or "concentrates" means products consisting wholly or in part of the resin extracted from any part of the plant *Cannabis* and having a THC concentration greater than ten percent.

(14) "Marijuana-infused products" means products that contain marijuana or marijuana extracts, are intended for human use, are derived from marijuana as defined in subsection (11) of this section, and have a THC concentration no greater than ten percent. The term

WAC 314-55-101 Quality control sampling. (1) All licensed cannabis processors, producers, certified labs, and certified lab employees must comply with the sampling procedures described in this section, consistent with RCW 69.50.348. Noncompliance may result in disciplinary action as described in this chapter and applicable law.

(2) **Sample collection.** All samples of cannabis, useable cannabis, or cannabis-infused products must be submitted to a certified lab for testing consistent with this chapter.

(a) All samples must be deducted, stored, and transported in a way that prevents contamination and degradation.

(b) To maximize sample integrity, samples must be placed in a sanitary container and stored in a location that prevents contamination and degradation.

(c) Each quality control sample container must be clearly marked "quality control sample" and labeled with the following information:

(i) The certificate number and name of the certified lab receiving the sample;

(ii) The license number and registered trade name of the licensee sending the sample;

(iii) The date the sample was collected; and

(iv) The weight of the cannabis, useable cannabis, or cannabis-infused product the sample was collected from.

(d) Sampling and analysis requirements apply to all cannabis products regulated by the board.

(3) **Additional sampling protocols for quantities of cannabis flower:**

(a) Samples must be of roughly equal weight not less than one gram each. Each sample must be deducted from a harvest as defined in WAC 314-55-010(14).

(b) For cannabis flower weighing up to 10 pounds, a minimum of eight samples must be taken.

(c) For cannabis flower weighing 10 pounds or more but less than 20 pounds, a minimum of 12 samples must be taken.

(d) For cannabis flower weighing 20 pounds or more but less than 30 pounds, a minimum of 15 samples must be taken.

(e) For cannabis flower weighing 30 pounds or more but less than 40 pounds, a minimum of 18 samples must be taken.

(f) For cannabis flower weighing 40 pounds or more but not more than 50 pounds, a minimum of 19 samples must be taken.

(4) **Sample retrieval and transportation.** Certified labs may retrieve samples from a cannabis licensee's licensed premises and transport the samples directly to the lab.

(5) Certified labs must reject or fail a sample if the lab has reason to believe the sample was not collected in the manner required by this section, adulterated in any way, contaminated with known or unknown solvents, or manipulated in a manner that violates the sampling protocols, limit tests, or action levels.

[Statutory Authority: RCW 69.50.342 and 2022 c 16 § 168. WSR 22-14-111, § 314-55-101, filed 7/6/22, effective 8/6/22. Statutory Authority: RCW 69.50.345 and 69.50.348. WSR 22-06-097, § 314-55-101, filed 3/2/22, effective 4/2/22. Statutory Authority: RCW 69.50.342 and 69.50.345. WSR 17-12-032, § 314-55-101, filed 5/31/17, effective 8/31/17; WSR 16-11-110, § 314-55-101, filed 5/18/16, effective 6/18/16.]

Intermediate Product Type	Tests Required
Concentrate or extract made with hydrocarbons (solvent based made using n-butane, isobutane, propane, heptane, or other solvents or gases approved by the board of at least 99% purity)	1. Potency analysis 2. Mycotoxin screening 3. Residual solvent test 4. Pesticide screening
Concentrate or extract made with a CO_2 extractor like hash oil	1. Potency analysis 2. Mycotoxin screening 3. Residual solvent test 4. Pesticide screening
Concentrate or extract made with ethanol	1. Potency analysis 2. Mycotoxin screening 3. Residual solvent test 4. Pesticide screening
Concentrate or extract made with approved food grade solvent	1. Potency analysis 2. Microbiological screening 3. Mycotoxin screening 4. Residual solvent test 5. Pesticide screening
Concentrate or extract (nonsolvent) such as kief, hash, rosin, or bubble hash	1. Potency analysis 2. Microbiological screening 3. Mycotoxin screening 4. Pesticide screening
Infused cooking oil or fat in solid form	1. Potency analysis 2. Microbiological screening 3. Mycotoxin screening 4. Pesticide screening

(d) **End products.** All cannabis, cannabis-infused products, cannabis concentrates, cannabis mix packaged, and cannabis mix infused sold from a processor to a retailer require the following quality assurance tests:

End Product Type	Tests Required
Infused solid edible	1. Potency analysis 2. Water activity testing
Infused liquid (like a soda or tonic)	1. Potency analysis
Infused topical	1. Potency analysis
Cannabis mix packaged (loose or rolled)	1. Potency analysis
Cannabis mix infused (loose or rolled)	1. Potency analysis
Concentrate or cannabis-infused product for inhalation	1. Potency analysis

(e) End products consisting of only one intermediate product that has not been changed in any way are not subject to potency analysis.

(5) Useable flower, a batch of cannabis concentrate, or a batch of cannabis-infused product may not be sold until the completion and successful passage of required quality control testing, except:

(a) Licensees may wholesale and transfer batches or quantities of cannabis flower and other material that will be extracted, and cannabis mix and nonsolvent extracts, for the purposes of further extraction prior to completing required quality control testing.

(b) Business entities with multiple locations licensed under the same UBI number may transfer cannabis products between the licensed locations under the same UBI number prior to quality control testing.

(c) Licensees may wholesale and transfer failed batches or quantities of cannabis flower to be extracted pursuant to subsection (6) of this section, unless failed for tests that require immediate destruction.

(6) **Failed test samples.**

(a) Upon approval by the board, failed quantities of cannabis or batches may be used to create extracts. After processing, the extract must pass all quality control tests required in this section before it may be sold, unless failed for tests that require immediate destruction.

(b) Retesting. A producer or processor must request retesting. The board may authorize the retest to validate a failed test result on a case-by-case basis. The producer or the processor requesting the retest must pay for the cost of all retesting.

(c) Remediation. Remediation is a process or technique applied to quantities of cannabis flower, lots, or batches. Remediation may occur after the first failure, depending on the failure, or if a retest process results in a second failure. Pesticide failures may not be remediated.

(i) Producers and processors may remediate failed cannabis flower, lots, or batches so long as the remediation method does not impart any toxic or harmful substance to the useable cannabis, cannabis concentrates, or cannabis-infused product. Remediation solvents or methods used on the cannabis product must be disclosed to:

(A) A licensed processor;

(B) The producer or producer/processor who transfers the cannabis products;

(C) A licensed retailer carrying cannabis products derived from the remediated cannabis flower, lot, or batch; or

(D) The consumer upon request.

(ii) The entire quantity of cannabis from which the failed sample(s) were deducted must be remediated.

(iii) No remediated quantity of cannabis may be sold or transported until quality control testing consistent with the requirements of this section is completed.

(iv) If a failed quantity of remediated cannabis is not remediated or reprocessed in any way after a first failure, it cannot be retested. Any subsequent certificates of analysis produced without remediation or reprocessing of the failed quantity of cannabis will not supersede the original compliance testing certificate of analysis.

(7) **Referencing.** Certified labs may reference samples for mycotoxins, heavy metals, and pesticides testing to other certified labs by subcontracting for those fields of testing. Labs must record all referencing to other labs on a chain-of-custody manifest that includes, but is not limited to, the following information: Lab name, certification number, transfer date, address, contact information, delivery personnel, sample ID numbers, field of testing, and receiving personnel.

(8) Certified labs are not limited in the amount of useable cannabis and cannabis products they may have on their premises at any given time, but a certified lab must have records proving all cannabis and cannabis-infused products in the certified lab's possession are held only for the testing purposes described in this chapter.

Exhibit

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California Regulations

Department of Cannabis Control

Medicinal and Adult-Use Commercial Cannabis Regulations

California Code of Regulations Title 4

Division 19. Department of Cannabis Control

Chapter 1. All Licensees

Article 1. Division Definitions and General Requirements

§15000. Definitions.

(a) “Act” means the Medicinal and Adult-Use Cannabis Regulation and Safety Act, codified in Business and Professions Code section 26000, et seq.

(b) “Adulterated” or “adulteration” has the meaning stated in section 26039.6(a) of the Act.

(c) “Allergen” means a major food allergen as defined in 21 U.S.C § 321(qq).

(d) “Appellation of Origin” means a designation to indicate that the cannabis meets the requirements developed by the program established pursuant to section 26063 of the Act.

(e) “Applicant” means an owner that is applying for a Department-issued license.

(f) “Batch” means a specific quantity of homogeneous cannabis or cannabis product that is one of the following types:

(1) “Harvest batch” means a specifically identified quantity of dried flower or trim, leaves, and other cannabis plant matter that is harvested at the same time, and, if applicable, cultivated using the same pesticides and other agricultural chemicals.

(2) “Manufactured cannabis batch” or “production batch” means either:

(A) An amount of cannabis concentrate or extract produced in one production cycle using the same extraction methods and standard operating procedures; or

(B) An amount of a type of cannabis product produced in one production cycle using the same formulation and standard operating procedures.

(g) “Cannabis accessories” has the meaning stated in Health and Safety Code section 11018.2.

(h) “Cannabis concentrate” means cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product’s potency. For purposes of this division, “cannabis concentrate” includes, but is not limited to, the kief, tinctures, capsules, suppositories, extracts, butter, vape cartridges, inhaled products (e.g., dab, shatter, and wax), and tablets as defined in subsection (nnn).

destroyed, the date, time, and the names and signatures of persons involved in these activities shall be recorded on the COC form.

(d) Once the custody of the sample changes between licensees, the COC form for that change of custody may not be altered.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26100, 26102, 26104 and 26110, Business and Professions Code.

§ 15707. Harvest Batch Sampling.

(a) The sampler shall obtain a representative sample from each prepacked or unpacked harvest batch. The representative sample must weigh 0.35% of the total harvest batch weight.

(b) A sampler may collect a representative sample greater than 0.35% of the total harvest batch weight of a prepacked or unpacked harvest batch if necessary to perform the required testing or to ensure that the samples obtained are representative.

(c) The prepacked or unpacked harvest batch from which a sample is obtained shall weigh no more than 50.0 pounds. Laboratory analyses of a sample collected from a harvest batch weighing more than 50.0 pounds shall be deemed invalid and the harvest batch from which the sample was obtained shall not be released for retail sale.

(d) When the sampler obtains a representative sample from an unpacked harvest batch, the sampler shall do all the following:

(1) Collect the number of sample increments relative to the unpacked harvest batch size as listed in the following table;

(2) Obtain sample increments from random and varying locations of the unpacked harvest batch, both vertically and horizontally. To the extent practicable, the sample increments obtained from an unpacked harvest batch shall be of equal weight; and

(3) To the extent practicable, collect an equal number of sample increments from each container if the unpacked harvest batch is stored in multiple containers.

Unpacked Harvest Batch Size (pounds)	Number of Increments (per sample)
≤ 10.0	8
10.1 – 20.0	16
20.1 – 30.0	23
30.1 – 40.0	29
40.1 – 50.0	34

Authority: Section 26013, Business and Professions Code. Reference: Sections 26100, 26104 and 26110, Business and Professions Code.

§15708. Cannabis Product Batch and Pre-Roll Sampling.

(a) The sampler shall obtain a representative sample from each cannabis product batch or pre-roll batch.