



April 13, 2023

Cannabis Compliance Board
700 Warm Springs Road, Suite 100
Las Vegas, NV 89119
Via email to: regulations@ccb.nv.gov

Subject: Proposed Changes to NCCR for April 14, 2023 Workshop

Dear Cannabis Compliance Board Members and Director Klimas,

On behalf of the Nevada Cannabis Association, we are submitting this public comment on the proposed changes to the NCCR set for Workshop on April 14, 2023.

Agenda Item II

Item II on the Agenda is the solicitation of input on regulations for possible amendment and/or repeal. Pursuant to the Governor's Executive Order, these regulations can be "streamlined, clarified, reduced or otherwise improved to ensure [they] provide for the general welfare of the State without unnecessarily inhibiting economic growth."

We propose that the Board repeal **NCCR 6.025 – Board authorized to collect fee for costs for oversight; hourly rate**. This regulation allows the Board to collect a fee from licensees; however that fee is not authorized by statute. The practice of "time and effort billing" inhibits the economic growth of licensees and should be repealed.

In addition, we propose that the Board repeal certain provisions of **NCCR 15.055** to address ventilation requirements in existing consumption lounge regulations which are costly and burdensome, and exceed what is needed to provide adequate ventilation.

15.055 Ventilation of the cannabis consumption lounge. A ventilation plan must be submitted, approved, with changes as necessary, and fully implemented prior to issuance of a final license. At a minimum, the ventilation plan must include:

- ~~1. A separate ventilation system within any designated smoking room capable of 30 complete air changes per hour at a minimum that must be directly exhausted to the outdoors;~~
- ~~2. A separate system within the rest of the cannabis consumption lounge capable of 20 complete air changes per hour at a minimum that must be directly exhausted to the outdoors;~~
3. 1. The ventilation system within any smoking room must create a negative air pressure within the room;
4. 2. A High Efficiency Particulate Air (HEPA) filtration system, or equivalent system, capable of handling the entire volume of air within any separate room of the lounge;
5. 3. An odor mitigation plan that identifies, at a minimum, the following:
 - (a) The specific odor control equipment to be installed and operated to mitigate odor emissions prior to leaving the building;

(b) An engineering assessment approved by a certified professional engineer ensuring the odor control equipment installed and operated will mitigate odor emissions prior to leaving the building; and

(c) An operation and maintenance plan showing the monitoring frequency for preventative maintenance, the timely responses to equipment malfunctions and the record keeping and employee training in place to ensure the odor control equipment to be installed and operating is maintained per manufacturer's specifications.

d) Any deviations from the odor mitigation plan or malfunction of equipment must be documented on a log that shall be provided to the Board upon request.

6. 4. If the cannabis consumption lounge ~~plans to use~~ has an outdoor smoking area, the applicant must submit a request to the local jurisdiction and comply with any requirements the local jurisdiction may have regarding an outdoor smoking area.

7. 5. Atmospheric monitoring of the non-smoking room of the cannabis consumption lounge focusing, at a minimum on an 8-hr average and 15 min peak CO₂ and PM 2.5 concentrations which must include an audible and visual notification system, alerting the facility to any failures.

~~8.~~ 6. Any local jurisdiction requirements. Local jurisdiction requirements can be more restrictive than the NCCRs.

Agenda Item IV

NCCR 5.040

Subsection (3)(i)(1) could be confusing as drafted. If read with subsection (i), it appears that the 5% ownership requirement applies only to lounge applications, which is aligned with statute. However, instead of the term "proposed cannabis consumption lounge" which is used in subsection (i), subsection (i)(1) uses the term "proposed cannabis establishment." The term cannabis establishment is defined in statute, broadly, as all types of cannabis licenses. Our understanding is that the intent is for this to only apply to proposed consumption lounge applicants, so it may be clearer to use the term "proposed consumption lounge" throughout.

NCCR 5.045

As addressed in our letter and comments at the December CCB meeting, the proposed changes to the licensing regulations are directly contrary to statute.

NCCR 5.045(1) would authorize the use of a lottery to eliminate applications. However, as set forth below, for licenses other than lounges, NRS 678B.250 and 678B.280 require that the Board use criteria of merit to evaluate applications and adopt regulations to determine the relative weight of each criteria. If the Board eliminated non-lounge applications via a random number generator, the Board would not be following the statutorily required process for evaluating license applications. The criteria of merit must be considered for applications for licenses other than lounge licenses, and the regulations cannot circumvent this requirement.

NRS 678B.250(6) requires that when issuing licenses the Board "shall consider the criteria of merit and scoring guidelines set forth in NRS 678B.280 or 678B.324, as applicable." The



statute specifically exempts lounge applications but does not exempt other types of license applications.

NRS 678B.280

1. In determining whether to issue an adult-use cannabis establishment license pursuant to NRS 678B.250, *other than an adult-use cannabis establishment license for a retail cannabis consumption lounge or an independent cannabis consumption lounge*, the Board shall, in addition to the factors set forth in that section, consider criteria of merit established by regulation of the Board. (Emphasis added.)

That statute goes on to enumerate what may constitute criteria of merit, such as the prior experience of the owners and key personnel, a plan for safekeeping of products and seed-to-sale tracking, and diversity. Further, the statute requires the Board to “adopt regulations for determining the relative weight of each criteria of merit established by the Board pursuant to subsection 1.”

With respect to lounges only, Assembly Bill 341 did specify that a lottery could take place if there were more applications than available licenses. However, this lottery does not extend to all types of licenses. For licenses other than lounges, the Board cannot eliminate applications without considering merit.

Thank you for your consideration of these comments.

Respectfully,

A handwritten signature in black ink, appearing to read "L Martin".

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

From: Chaohsiung Tung <Doc@g3labsllc.com>
Sent: Thursday, April 13, 2023 2:12 PM
To: CCB Regulations
Subject: April 14 CCB Workshop recommendations
Attachments: G3 Labs Inputs for April 14 2023 Workshop.docx

WARNING - This email originated from outside the State of Nevada. Exercise caution when opening attachments or clicking links, especially from unknown senders.

To Whom It May Concern:

Please accept the attached file as recommendations for repeal of NCCR for the April 14, 2023 Workshop.

Sincerely,

Chao-Hsiung Tung, Ph.D.
Scientific Director
G3 Labs, LLC

Sent from [Mail](#) for Windows

Proposed Changes to NCCR Regulation 11

New

~~Deleted~~

11.025.1 Each cannabis independent testing laboratory must:

- (a) ~~Follow~~ **Reference** the most current version...
- (b) ~~Follow~~ **Reference** the Recommendations for Regulators...

11.040.9(a) Notify the appropriate Board Agent in writing within **two (2) business days** ~~24 hours~~.

11.050.7. A cannabis independent testing laboratory shall provide the final certificate of analysis to the Board and to the cannabis establishment from which the sample was collected **at the same time** ~~within 2 business days~~ after obtaining the results.

11.070.9 A cannabis independent testing laboratory shall...required by NCCR 11.050 to 11.065, inclusive, at the same time...which provided the samples. **[delete obsolete practice]** ~~The cannabis independent testing laboratory shall transmit an electronic copy of the certificate of analysis for each test to the Board by electronic mail at: (a) If the test was passed, cannabispas@ccb.nv.gov; or (b) If the test was failed, cannabislabfail@ccb.nv.gov.~~

11.070.10 **Repealed this subsection entirely for obsolete practice** ~~An electronic mail message transmitted pursuant to subsection 9 must be formatted as follows: (a)...(b) (c)...the change in 10 point font.~~

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From: Trevor Low <Trevor@canalysislab.com>
Sent: Thursday, April 13, 2023 4:48 PM
To: CCB Regulations
Subject: L017 Proposed Amendments to NCCR, 4/13/23
Attachments: L017 Proposed Amendments to NCCR 2023.docx

WARNING - This email originated from outside the State of Nevada. Exercise caution when opening attachments or clicking links, especially from unknown senders.

For consideration at the CCB Workshop on 4/14/23, regarding Executive Order 2023-003.

Thank you,

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Trevor Low
Lab Director
Canalysis Laboratories

Proposed Amendments to NCCR 2023 Canalysis Laboratories (L017)

Re: CCB Workshop – April 14

Pursuant to Executive Order 2023-003, the Nevada Cannabis Compliance Board (CCB) will be holding a workshop to solicit comments on Nevada Cannabis Compliance Regulations (NCCR) on April 14, 2023.

1. Building Requirements – *building requirements for a cultivation or production facility may not be applicable to sales facilities or laboratories. Requirements meant to ensure food safety are not applicable to laboratories.*

10.055 Cannabis establishment: Requirements for building used to manufacture, process, package or hold cannabis.

1. Each cannabis establishment shall ensure that any building used to manufacture, process, package or hold cannabis or cannabis products:

- (a) Is of suitable size, construction and location to facilitate cleaning, maintenance and proper operations;
- (b) Has adequate space for the orderly placement of equipment and materials to prevent miscalculation or misuse of any component in any step of the manufacture, control, packaging, labeling or distribution of cannabis or cannabis products between different components, product containers, closures, labels, in-process materials and cannabis or cannabis products and to prevent contamination; and
- (c) Contains interior surfaces which are not constructed of bare, painted or coated wood or wood product unless:
 - (1) The bare, painted or coated wood is within a building used only as a cannabis sales facility **or a cannabis testing laboratory** and all cannabis or cannabis products are packaged or protected at all times; or
 - (2) The wood is sealed and coated with an epoxy paint which renders the surface:
 - (I) Safe;
 - (II) Durable, corrosion-resistant, nonporous and nonabsorbent;
 - (III) Finished to have a smooth, easily cleanable surface; and
 - (IV) Resistant to pitting, chipping, crazing, scratching, scoring, distortion and decomposition.

2. CCB Notice from 1/9/23 – *add to NCCR Section 11 verbiage regarding non-payment of past due balances*

[January 9, 2023]

To All Independent Testing Laboratories:

Pursuant to Nevada Cannabis Compliance Regulation (NCCR) 11.075, at the request of a cannabis cultivation facility or a cannabis production facility, the appropriate CCB Board Agent may, on a case-by-case basis, authorize a retest to validate the results of a failed test. The cannabis cultivation facility or cannabis production facility is responsible for all costs involved in the retest. The facility must submit a request for retesting to the Board via the Accela platform. If the Board grants the request, the Board Agent will select the independent testing laboratory that may perform the retest.

If a laboratory is selected to perform a retest for a facility for which there is a past due balance, it is within the laboratory's rights to refuse to perform the retest until such matters are resolved.]

Proposed addition to Section 11:

11.075 (11) If a laboratory is selected to perform a retest for a facility for which there is a past due balance, it is within the laboratory's rights to refuse to perform the retest or withhold results until such matters are resolved.

3. Clarification of "Infused Non-Edible" in Section 11.050 (table) to include *tinctures*.

Proposed amendment to testing table:

Infused Non-Edible product, including topical cannabis product, tinctures, or a product which contains concentrated cannabis	1. Potency analysis	1. N/A
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4. Addition to Section 11 regarding re-analysis of anomalous results. *Mistakes can happen in the normal course of laboratory work. Weighing errors, incomplete transfer of sample extracts, dilution errors, possible contamination etc. can occur and can adversely affect results (i.e. there are instances where a sample rerun is warranted, and has nothing to do with intentional manipulation or efforts to "improve" the result). Sometimes the error is obvious and sometimes it is not.*

Proposed addition:

11.071 Limited internal re-testing of anomalous test results.

1. Upon review of assay data, if an analytical error is suspected, the assay may be repeated to verify the anomalous result.

- a. If the error is believed to be localized to a single sample, that sample may be rerun (including re-extraction, if necessary) to verify the result.
 - b. If the error is believed to be systemic, all affected samples (e.g. between bracketing QC samples, or possibly the entire analytical run) must be rerun.
- 2. If an assay is rerun for any sample,
 - a. If the rerun confirms the original result, the original result will be reported;
 - b. If the rerun is significantly different from the original result, a third assay should be performed on the sample to establish reproducibility of either of the first two results, which would then be reported.
- 3. A written procedure for testing and verification of anomalous test results must be established and maintained by the laboratory Quality Manager that outlines:
 - a. The circumstances under which a sample may be rerun;
 - b. Procedures for documentation of all actions taken, including
 - i. Identification of the possible causes of the anomalous result(s);
 - ii. Investigation and the results thereof;
 - iii. Corrective actions if any; and
 - iv. Resolution and justification of result reported.

5. Streamline R&D Testing to make it easier for cultivation and production facilities.

11.045 Limited testing for research and development purposes.

1. A cannabis cultivation facility or a cannabis production facility may conduct operations and request limited laboratory testing by a cannabis independent testing laboratory for research and development purposes.
2. A cannabis cultivation facility or cannabis production facility described in subsection 1 shall:
 - (a) Notify the appropriate Board Agent of its intent to conduct research and development on a form prescribed by the Board by electronic mail before sending a sample to a cannabis independent testing laboratory;
 - ~~(b) Receive approval from the appropriate Board Agent for the requested research and development studies;~~
 - (c) Quarantine each batch, lot or production run in a separate quarantine area and label each batch, lot or production run with a distinctive label containing “R&D QUARANTINE” as a header and footer in 20-point white font and a red background;
 - (d) Account for all cannabis subject to quarantine pursuant to paragraph (b) in the seed to-sale tracking system;
 - (e) Limit all research and development operations to clearly segregated and designated areas or rooms marked “R&D CULTIVATION AREA” or “R&D PRODUCTION AREA” on 8 1/2 by 11-inch signs with a red background and white lettering, posted at the entrance to the area or room and along the walls of the area or room, with a minimum of one sign for every 300 square feet of the area or room; and
 - (f) Perform research and development operations in a grow room only if the plants used

for such operations are designated and separated from other plants.

3. A cannabis cultivation facility or cannabis production facility operating as described in subsection 1 may request limited testing protocols from a cannabis independent testing laboratory for research and development purposes. ~~A cannabis independent testing laboratory shall not perform any laboratory tests on research and development samples which were not specifically indicated as part of the approved study.~~ A cannabis independent testing laboratory may test for all analytes requested by the licensee, and charge accordingly for such testing.

6. Revision of Section 11.070 (9) to reflect current practice.

9. A cannabis independent testing laboratory shall file with the Board, in a manner prescribed by the Board, an electronic copy of the certificate of analysis for all tests performed by the cannabis independent testing laboratory, regardless of the outcome of the test, including all testing required by NCCR 11.050 to 11.065, inclusive, at the same time that it transmits those results to the facility which provided the sample. The cannabis independent testing laboratory shall transmit an electronic copy of the certificate of analysis for each test to the Board ~~by electronic mail at:~~

~~(a) If the test was passed, cannabislabpass@ceb.nv.gov; or~~

~~(b) If the test was failed, cannabislabfail@ceb.nv.gov.~~

~~By uploading the certificate of analysis to the sample tag# in METRC simultaneously when results are uploaded, or as soon as possible thereafter.~~

7. Transportation of cannabis – *NCCR section 13 applies to distributors (transporting several pounds of cannabis product at a time); for labs, the Scientific Director should have the authority to approve vehicles (per NCCR 13.030[4]) to transport samples for compliance testing (gram quantities of samples).*

13.030 Transportation between cannabis establishments owned by distributor; use of motor vehicles for transportation; adequate care for perishable cannabis products.

1. A cannabis distributor that also holds a license for a cannabis establishment of another type and that is transporting cannabis or cannabis products between its own cannabis establishments located within the same building, within contiguous buildings, or between buildings located within 500 feet of each other, is not required to use a vehicle to perform the transportation.

2. A cannabis distributor may use any motor vehicle, except those with 2 wheels, that can legally be operated on the highways of this State and that meets the requirements of this section to transport cannabis and cannabis products.

3. Before using a motor vehicle to transport cannabis or cannabis products, a cannabis distributor must obtain the approval of the appropriate Board Agent for the use of the motor vehicle. Upon approving a motor vehicle for use to transport cannabis or cannabis products, the Board will issue an identification card containing such information as the Board Agent determines to be necessary which must be kept inside the motor vehicle at all times.

4. A cannabis distributor shall ensure that each motor vehicle used to transport cannabis or cannabis products:
 - (a) Has no advertising, signage or other markings relating to cannabis; and
 - (b) Is equipped with an audible car alarm.
5. A cannabis distributor shall provide adequate care for perishable cannabis products including, without limitation, refrigeration during transportation, if required. Any method for temperature control used during transportation must be approved by the appropriate Board Agent before use. If a potentially hazardous cannabis product is being transported, the potentially hazardous cannabis product must be maintained at a temperature of less than 41°F (5°C) throughout transportation.
6. Each cannabis distributor shall maintain at least one motor vehicle using a method approved by the appropriate Board Agent for temperature control during transportation.
7. A Board Agent may inspect each motor vehicle used for transportation of cannabis or cannabis products by a cannabis distributor pursuant to NCCR 5.070.
8. ~~Before using a motor vehicle to transport cannabis or cannabis products, a cannabis independent testing laboratory must obtain the approval of the appropriate Board Agent for the use of the motor vehicle. Upon approving a motor vehicle for use to transport cannabis or cannabis products, the Board will issue an identification card containing such information as the Board Agent determines to be necessary which must be kept inside the motor vehicle at all times.~~ Per NCCR 11.010, a cannabis independent testing laboratory must employ a Scientific Director. The Scientific Director has the authority to inspect and approve vehicles (in compliance with sections 4-5 above) for use in transporting samples for compliance and/or R&D testing to and from licensed cannabis establishments only.

From: rita@sinsemilla.works rita@sinsemilla.works <rita@sinsemilla.works>
Sent: Wednesday, April 12, 2023 7:02 PM
To: CCB Regulations
Subject: Request to Attend Workshop on Cannabis Destruction and Proposed Solution - Sinsemilla Works LLC

WARNING - This email originated from outside the State of Nevada. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Dear members of the Cannabis Compliance Board,

I am writing to you on behalf of Sinsemilla Works LLC, a cannabis destruction and waste management company. We are interested in attending the upcoming workshop in Las Vegas on April 14, 2023 where we hope to address the important issue of cannabis destruction and to bring forth a solution that aligns with our mutual concerns.

Our company was created with a vision and a purpose to fill a void in the industry that has been long overdue. Over the course of five years, we have gained professional experience in managing cannabis inventory and addressing compliance discrepancies directly. Through this hands-on experience, we have identified a need for a solution that is both convenient and compliant. Furthermore, we have developed a vision for a solution that would offer consistency in cannabis inventory management and compliance. Our experience has given us the insights necessary to design and implement an effective solution that meets the needs of the cannabis industry.

Nevada has emerged as a leader in cannabis regulation in the United States, setting a high standard for other states to follow. The state has established a regulatory framework that ensures compliance with all federal, state, and local laws related to cannabis production, distribution, and consumption. We would like to work collaboratively with the Cannabis Compliance Board to ensure that cannabis destruction is being managed effectively and safely.

One of Nevada's most notable achievements in cannabis regulation is the establishment of a robust and comprehensive licensing system. Therefore, we would like to apply for a Metrc Seed-To-Sale license, but we are unable to find any information on the category at present. We would appreciate the opportunity to share our ideas with the board members and answer any questions you may have about our processes.

We are excited about the prospect of working with you in the near future.

Sincerely,

Rita Scolaro | CEO
Sinsemilla Works, LLC.
rita@sinsemilla.works
c: (702) 886-0217
8565 S Eastern Ave. Suite 150



April 13, 2023

Cannabis Compliance Board
700 E. Warm Springs Rd. #100
Las Vegas, NV 89119
BY EMAIL: regulations@ccb.nv.gov

Re. Regulation Workshop NCCR 1-15

Dear Chairman Douglas and Members of the Board:

Thank you for considering input regarding changes to regulations governing cannabis licensing and registration. We are concerned that some of the proposed changes do not reflect the Legislature's express intent to adhere to a merit-based system of awarding cannabis establishment licenses. Specifically, the change to Regulation 5, Licensing, Background Check, and Registration Card. Throughout the proposed revisions, the regulation proposes changing the regulation that governs "cannabis lounges" to "cannabis establishment," effectively changing the merit-based licensing approach used to award licenses for dispensaries, cultivations, and productions, to a random/lottery style approach used by the CCB to award licenses for cannabis lounges.

It is our belief that a merit-based system of awarding cannabis licenses in Nevada is far superior to a random or lottery-based system. In his remarks concerning Senate Bill 374 of the 77th Session of the Legislature on June 1, 2013, Senator Tick Segerblom stated, "When considering applicants, the criteria includes a background check, how the applicant has been in Nevada, financial resources, experience, medical background, et cetera. These criteria will be used by the state in making the selections." This merit-based approach differed in intent from the approach used in licensing cannabis lounges. Legislators enacted a path for cannabis consumption lounges to be awarded to qualifying social equity applicants but has not done so for other license types. This diversion from the previously enumerated criteria of merit applies only to consumption lounge licensing.

First and foremost, a merit-based system ensures that licenses are awarded to those who are most qualified and capable of performing the tasks associated with a Nevada cannabis license. This means that the public can have greater confidence in the abilities of those who are granted licenses, which in turn can improve safety and quality across a range of industries. In contrast, a random or lottery-based system would essentially be a game of chance, with no guarantee that the best candidates would be selected, regardless of an initial screening. Additionally, a merit-based system incentivizes individuals and organizations to invest in developing the skills and capabilities needed to qualify for a license. This creates a culture of excellence that can drive innovation, foster competition, and ultimately benefit consumers and society. A random or lottery-based system, on the other hand, would provide no such incentives, and could potentially reward those who are less committed to excellence or who lack the necessary skills and qualifications.

The recent licensing process for cannabis lounges are an example of how, regardless of an initial application screening, when the time for granting a license came, many of the screened applicants were unable to deliver on the financing requirement as well as other required criteria.

If the State seeks to increase diversity, social equity, or inclusion, then a lottery is at odds with their goals. A lottery, by definition, would not further the goal to afford licenses to a particular population. Whereas the merit-based system already in place requires the State to consider diversity under 678B.240(1)(i). If the lottery's purpose is to avoid litigation to the exclusion of prioritizing criteria of merit, that is not a public policy goal that has been expressed by the Nevada legislature as it relates to awarding cannabis establishment licenses.

In conclusion, we strongly urge the CCB to withdraw the change to Regulation 5 and any amendment that extends the random/lottery based system used for cannabis lounges to all current cannabis establishments. Should future licensing be needed, the current merit based system ensures that licenses are awarded to the most qualified and capable candidates, incentivize excellence and innovation, and promote transparency and accountability. These are all critical factors in creating a regulatory environment that can effectively serve the public interest.

Thank you for considering our perspective on this important issue.

David Goldwater
Inyo Fine Cannabis

Bonnie Chu
Euphoria

Pejman Bady
Integrity Pros

2520 Maryland Pkwy., Suite #2, Las Vegas, NV 89109

