NMRLD

NEW MEXICO REGULATION & LICENSING DEPARTMENT

Your Protection
Is Our Priority

Legislative Health and Human Services Committee

October 25, 2021

Linda M. Trujillo, Superintendent

John Blair, Deputy Superintendent

Juan Blea, Chief Information Officer

NMRLD

What We Do

We regulate more than 500,000 individuals and businesses in 35 industries, professions and trades across the state. Our goal is to assure that New Mexicans receive quality services from qualified individuals and businesses while also ensuring a fair and prompt administrative process.

Your protection is our priority.

Vision, Mission and Values

RLD's MISSION

To ensure qualified professionals provide quality care and services to all people of New Mexico

RLD's VISION

Unleashing the vitality of New Mexico through responsible and innovative regulation and public protection.

RLD's GUIDING VALUES

Service, Integrity, and Dedication.

CANNABIS CONTROL DIVSION

- The Cannabis Regulation Act (CRA) **created a comprehensive regulatory structure for adult use cannabis in the state, including the creation of the Cannabis Control Division** (CCD).

- **CCD will administer the licensing and regulatory provisions of the CRA and the Lynn and Erin Compassion Use Act** (LECUA).

- The **Cannabis Regulatory Advisory Committee, created under the CRA, shall advise the CCD on the development of rules**. including best practices and the promotion of economic and cultural diversity in licensing and employment opportunities and protection of public health and safety, without over burdensome regulations.

- The Medical Cannabis Program patient registry, provided under the LECUA, will continue to be maintained by the Department of Health.

- Website: ccd.rld.state.nm.us

TIMELINE: September 1, 2021

Cannabis Regulatory Advisory Committee

Licensing: Cannabis Producer and Cannabis Producer Microbusiness

Persons properly licensed and in good standing as a licensed cannabis producer pursuant to the Lynn and Erin Compassionate Use Act

TIMELINE: January 1, 2022

All Other Licenses

Cannabis Establishments:
  a) Testing Laboratory
  b) Manufacturer
  c) Retailer
  d) Research Laboratory
  e) Vertically Integrated Cannabis Establishment
    i. Produce
    ii. Manufacture
    iii. Retailer
    iv. Courier
  f) Integrated Cannabis Microbusiness
    i. Produce at 1 site
    ii. Manufacture at a single premises
    iii. Operate 1 retail establishment
    iv. Couriering cannabis products

TIMELINE: January 1, 2022

All Other Licenses

- <u>Cannabis Courier</u>: a person that transports cannabis products to qualified patients, primary caregivers or reciprocal participants or directly to consumers.
- <u>Cannabis Consumption Area</u>: An area where cannabis products may be consumed.
- <u>Server Permit</u>: Allows a person to directly offer, sell or serve cannabis or cannabis products as part of commercial cannabis activity in a cannabis consumption area.
- <u>Cannabis Training and Education Program</u>: A practical or academic curriculum offered by a New Mexico public post-secondary educational institution designed to prepare students for participation in the cannabis industry.
- <u>Cannabis Server Permit Education Provider</u>: Provides cannabis server education courses and examinations.

Rules and License Application

- First Notice of Rule Hearing: May 25, 2021 - Rule Hearing June 29, 2021

- Second Notice of Rule Hearing: July 7, 2021 – Rule Hearing August 6, 2021

- Renewal of Legacy Licenses: July 29, 2021

- Notice of Adoption and Publication of Rules: August 24, 2021

- Initial Cannabis Producer and Cannabis Producer Microbusiness: August 25, 2021

- Emergency Manufacturer Rules: September 8, 2021

- Third Notice of Rule Hearing: September 28, 2021 – Rule Hearing October 28, 2021

- Fourth Notice of Rule Hearing: October 26, 2021 – Rule Hearing December 1, 2021
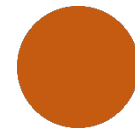
Planning: Rules and License Application

- Rules and License Application: Cannabis Testing Laboratory

- Rules: Cannabis testing

- Rules: Food and Product Safety

- Rules and License Application: Cannabis Research Laboratory, Cannabis Courier, Cannabis Consumption Area, and Cannabis server permit.

- Rules: Cannabis Server Permit Education Provider and Cannabis Training and Education Program.

- Rules: Labeling, Advertising, Warning of Adverse Effects, and Certification process to identify certain cannabis products.

ECONOMIC IMPACT

Projections

$300 million
in annual sales

11,000
new jobs

$50 million
in new revenue to
the state budget
is projected to be
generated in the
first year alone

Compliance & Staff Training

The division shall:

(1) monitor the supply and demand of cannabis products produced in New Mexico by licensees and present annually to the appropriate interim committee of the legislature the impacts of supply on illicit cannabis products markets and adequate supply of cannabis products for qualified patients and reciprocal participants;

(2) request the department of public safety to enforce the provisions of the Cannabis Regulation Act as deemed necessary; and

(3) undertake studies and conduct courses of instruction for division employees that will improve the operations of the division and advance its purposes.

Unlicensed Sales

UNLICENSED SALES OF CANNABIS

A. As used in this section, "traffic" means the:

(1) distribution, sale, barter or giving away of cannabis products; or

(2) possession with intent to distribute, sell, barter or give away cannabis products.

B. Unless otherwise provided in the Cannabis Regulation Act or the Lynn and Erin Compassionate Use Act, it is unlawful for a person without a license to intentionally traffic cannabis products.

…

E. A person eighteen years of age or older who violates Subsection B of this section and who conducts unlicensed cannabis product sales from a building, room or other area open to the public in a manner that would lead a reasonable person to believe that the area is a cannabis establishment licensed pursuant to the Cannabis Regulation Act is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

Unlicensed Activity - Penalties

Uniform Licensing Act (ULA) Definition:
 "board" means:
(3)   a board, commission or agency that administers a profession or occupation licensed pursuant to Chapter 61 NMSA 1978; and
(4)   any other state agency to which the Uniform Licensing Act is applied by law;

ULA Unlicensed Activity:
A. A person who is not licensed to engage in a profession or occupation regulated by a board is subject to disciplinary proceedings by the board.
B. A board may impose a civil penalty in an amount not to exceed one thousand dollars ($1,000) against a person who, without a license, engages in a profession or occupation regulated by the board. In addition, the board may assess the person for administrative costs, including investigative costs and the cost of conducting a hearing.

Legacy Licensees

B. In carrying out its commercial cannabis activity licensing duties, the division shall:

(1) no later than September 1, 2021, accept and begin processing license applications for cannabis producers, cannabis producer microbusinesses <u>and any person properly licensed and in good standing as a licensed cannabis producer pursuant to the Lynn and Erin Compassionate Use Act</u>;

- Of the 34 properly licensed "Licensed Non Profit Producer" (LNPP), 33 have been issued a Vertically Integrated Cannabis Establishment (VICE) license.

- LNPP licenses expired July 31, 2021.

- RLD started processing **online** renewals on July 27th and Saturday, July 31, RLD started sending out conditional approval letters.

- CHALLENGES: Plant count and plant fees were not established via rules until August 24th.

Estimating Adult-Use Cannabis Demand in New Mexico's Market

BACKGROUND

Section 40 of New Mexico's Cannabis Regulation Act requires the Cannabis Control Division to set, by rule, the number of cannabis plants that a licensee may produce. Further, the rule shall set the number of allowed cannabis plants per licensee to meet an average national market demand for cannabis products in states where adult and medical cannabis are authorized during the preceding year using a consumer base of no less than 20% of the adult population of New Mexico.

This study uses **three methods** to fulfil statutory obligations with the research objectives of:
- Identifying the average market demand for cannabis in states with medical and adult-use programs;
- Projecting demand representative of 20% of the New Mexico population; and
- Determining plant counts per licensed producer necessary to meet representative demand

INDIRECT METHOD #1

We gathered pre-calculated estimates of the total (g or lbs) projected during a recent year provided in independently commissioned studies for Washington, Vermont, and Colorado. Using these figures alongside consumer data provided by the National Survey on Drug Use and Health (NSDUH), we calculated the relative difference in the number of past-month cannabis users who were 21+ from each state relative to New Mexico's population. By controlling for New Mexico's population, we were able to project assumed demand under the premise that New Mexico's adult population consumes at the same proportion of the population and grams purchased in the past month for each state. To account for modest differences in proportion of past-month consumers and weight of past-month purchases across each state, we averaged the total figures across all three, leading to the following projected demand total:

201,325 Year-End, Aggregate Total Plants Required to Meet NM AU Demand*

*Based on National Market Average Using Indirect Method #1.

INDIRECT METHOD #2

To cross-validate the state-specific modeling, we leveraged the NSDUH 2019 data set to independently model consumer demand for each state relative to New Mexico's population. Unlike Indirect Method #1, this method uses raw survey data with responses specific to each state for the proportion of past-month consumers as it relates to grams purchased during last retail visit. This provides insight into what percentage of the overall consumer base consumes at what weight—a more precise way of predicting demand for each state as it controls for differences in consumer behavior. Using the frequently cited statistic of the average consumer visiting a dispensary 6.22 times a month, we modeled past-month weight (g), then multiplied that figure to end up with annual demand. Following the same standards for Indirect Method #1, we averaged the total figures across all three states, leading to the following project demanded total:

203,443 Year-End, Aggregate Total Plants Required to Meet NM AU Demand*

*Based on National Market Average Using Indirect Method #2.

DIRECT METHOD

Using a series of survey recruitment panels, we recruited 1,167 total residents of New Mexico (>20% of whom used cannabis in the past month). Among a series of questions, we asked participants who indicated past-month cannabis use to report the number of grams they used on average each week during the past month. In a similar fashion as in our estimation method using the NSDUH data to determine state-level demand, we multiplied average monthly grams reported by the number of individuals who are 21+ in New Mexico and are past-month cannabis users. This empirically derived data, representative of New Mexico's population and geography, resulted in the following projected demand total:

294,487 Year-End, Aggregate Total Plants Required to Meet NM AU Demand*

*Based on rigorous scientific methods that likely improved accuracy and generality.

RESULTS

In order to determine plant limitations per licensed producer to meet demand, the year-end results of the methods must be divided by four to account for an estimated four harvest cycles. This calculation provides a final demand unit of plants per harvest cycle (PPHC) that more accurately reflects the available plants required at any given time to meet production each year. This unit is reflective of a license plant cap amount. We then divided that figure by 33, the assumed number of licensed producers based on existing medical producer licensees.
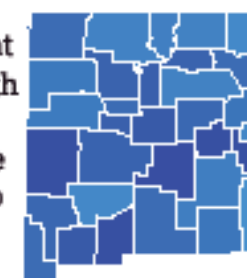
Method(s)	Year-End, Aggregate Total Plants for AU Demand	PPHC for AU Demand (*assumes 4)	PPHC Per Producer for AU Demand (*assumes 33)
Average of Indirect Method #1 and #2	202,384	50,596	1,533
Direct Method	294,487	73,622	2,231

CONCLUSION

Based on the three methods used in this study, the assumed range for PPHC per adult use producer in the initial New Mexico adult-use market is:

1,533 – 2,231

Considering that the Direct Method is empirically derived and estimated to have at least 5x larger representation for past-month consumers than the New Mexico data set collected by the federal survey (NSDUH), the higher end of the assumed range is likely to be more accurate than the lower end.

CANNABIS PUBLIC POLICY CONSULTING

NMDOH
NEW MEXICO DEPARTMENT OF HEALTH

Annual Yield per Plant Count (Seed to Harvest)

	Low	Midpoint	High
Full Plant Harvest Cycles per Year (Seed to Harvest)	2.3	2.7	3.9
Lbs per Harvested Plant	0.2	0.4	0.5
Annual Lbs per Plant Allocation (Seed to Harvest)	0.5	1.1	2.1

Source: MPG Analysis.

- The previous figures on harvest cycles and plant yields can be combined to estimate the annual yield of an individual plant allocation for producers, shown in the table above.
- A full lifecycle plant that counts towards a producer's plant count from seed to harvest can be harvested 2.7 times per year, based on the average estimated lifecycle of 136 days.
- If each plant harvest yields 0.4 pounds, then the annual yield per plant allocation is 1.1 pounds.
- This figure is used on the following slide to convert total pounds of demand into minimum plant count allocations for New Mexico.

Production Capacity Buffers and Proposed Tier System

- The table to the right presents total harvested plants, plant allocations and mature plant allocations under the 5-year demand estimate, as well as with a 50% additional production capacity buffers in place as a proxy for the utilization dynamic in mature markets.

- The production capacity buffer also accounts for production risks, such as pests, disease, worker error, systems failure and the uncertainty inherent in matching cannabis production to the demand in a newly established adult use market. Producers generally operate research & development projects for new product development that will require a plant allocation, but may not be for commercial purposes.

- In the table below we combine the results of our demand and plant count analysis to recommend a restructured tier system for New Mexico producers in the table to the right, and compare it to the tier system in the Cannabis Control Division's Proposed Rules.

Mature Plant Allocation Tiers		
	NM Proposed Tiers	**MPG Proposed Tiers**
Tier 1	200 - 2,500	200-1,000
Tier 2	2,501 - 3,500	1,001 - 3,000
Tier 3	3,501 - 4,500	3,001 - 6,000
Tier 4	-	6,001 - 10,000

Source: MPG Analysis.

	2026
Total Market Demand (Lbs)	216,645
Total Harvested Plants Needed (Demanded Quantity Only)	552,358
Total Harvested Plants Needed (50% Buffer over Demanded Quantity)	828,537
Total Plant Allocations Needed (Demanded Quantity Only)	199,201
Total Plant Allocations Needed (50% Buffer over Demanded Quantity)	298,802
Total Mature Plant Allocations Needed (Demanded Quantity Only)	86,229
Total Mature Plant Allocations Needed (50% Buffer over Demanded Quantity)	129,343

Projected Harvest

Approved plant count for legacy VICE licensees: 116,300 x 2.3 (low)/2.7 (midpoint)/3.9 (high) = **267,490/314,010/453,570**

Cannabis Public Policy year end, aggregate total plants recommendation: **294,487** (2022)

MPG total harvested plants recommendation: **552,358 − 826,537** (2026)

Unknown: New cannabis producer, cannabis producer microbusiness, vertically integrated cannabis establishment, and integrated cannabis microbusiness.

Questions?

Contact Information

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