NMRLD

NEW MEXICO REGULATION & LICENSING DEPARTMENT

Cannabis Control Division: ccd.rld.state.nm.us

Legislative Interim Committee:

Indian Affairs

John Blair, Deputy Superintendent

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.

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

TIMELINE: September 1, 2021

Cannabis Regulatory Advisory Committee

- Chief Public Defender – Bennett J. Baur, Chief Public Defender
- District Attorney – Mary Carmack-Altwies, First Judicial District Attorney
- Municipal Police Chief – Phil Smith, Roswell Chief of Police
- County Sheriff – Mark Cage, Eddy County Sheriff
- Cannabis Policy Advocacy Organization –
- Labor Organization –
- A Qualified Patient -
- State or Local Agency –
- Indian Nation, Tribe or Pueblo –
- Public Health –
- Regulating Commercial Adult-Use Intoxicating Substance –
- Cannabis Laboratory Science –
- Small Business Development –
- Water Resources –
- Other Relevant Experience –
- Previous Experience as a Cannabis Retailer, Producer, or Manufacturer (non-voting member)

MOST URGENT
ECONOMIC DRIVER
&
REGISTIRY PATIENT ACCESS IS:

PRODUCTION OF CANNABIS

TIMELINE: September 1, 2021

Producer Licenses

- CCD accepts and begins processing license applications for cannabis producers, cannabis producer microbusiness, and properly licensed medical cannabis producers.
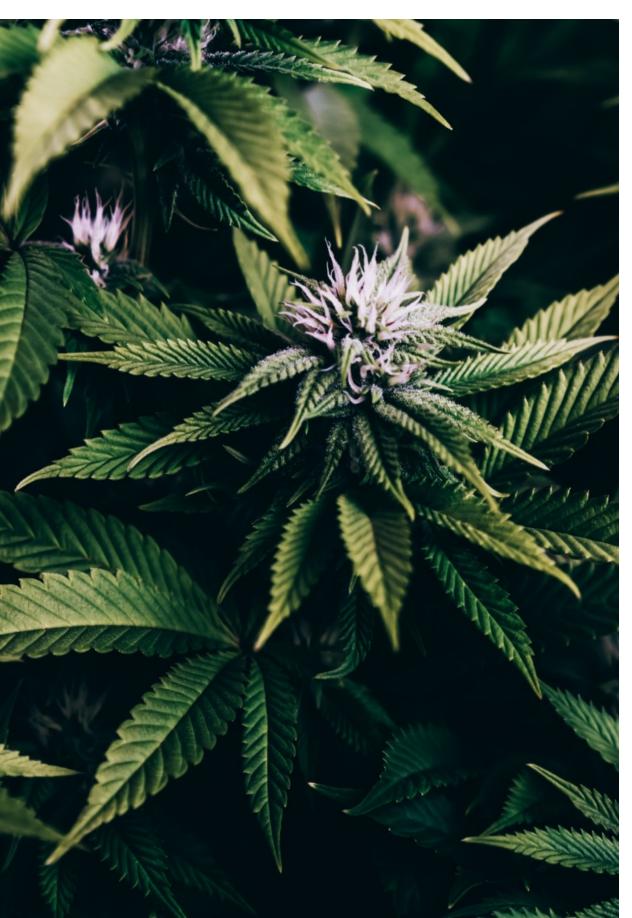
TIMELINE: January 1, 2022

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

- **Cannabis Courier**: a person that transports cannabis products to qualified patients, primary caregivers or reciprocal participants or directly to consumers.
- **Cannabis Consumption Area**: An area where cannabis products may be consumed.
- **Server Permit**: Allows a person to directly offer, sell or serve cannabis or cannabis products as part of commercial cannabis activity in a cannabis consumption area.
- **Cannabis Training and Education Program**: 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.
- **Cannabis Server Permit Education Provider**: Provides cannabis server education courses and examinations.

Cannabis Consumption Area

- Smoking in a cannabis consumption area on a licensed premises shall be allowed only if the cannabis consumption area is in a designated smoking area or in a standalone building from which smoke does not infiltrate other indoor workplaces or other indoor public places where smoking is otherwise prohibited pursuant to the Dee Johnson Clean Indoor Air Act.

HIGHLIGHTS

RLD'S EFFORTS

- RLD Senior Staff held meetings with Colorado and State of Washington regarding their cannabis efforts.

- **The Cannabis Regulators Association (CANNRA)** is a national organization of cannabis regulators that provides policy makers and regulatory agencies with the resources to make informed decisions when considering whether and how to legalize and regulate cannabis.

- Working with established producers and across state agencies, RLD collaboratively developed a producer framework.

- On May 25, 2021, Proposed rules posted on website.

- On June 29, 2021, a public rule hearing was held with over 600 participates.

- Public comments were also received via online with over 300 received.

- Through public comment, a public hearing, and ongoing conversations, RLD continues to strengthen the rules to ensure the best possible outcomes.

- On July 7, 2021, re-submitted Proposed Rules were posted on website, and public comment being accepted.

- Public hearing scheduled in-person and virtually on August 6, 2021.

CANNABIS
CONTROL
DIVISION

HIGHLIGHTS

RLD'S EFFORTS

InvestiNM
Diversity – Equity – Inclusion

- Conducted the first two of a series of workshops for individuals who are exploring opportunities in the emerging cannabis industry.
- The purpose of the workshops are to give a broad overview of government agencies and private industry that a cannabis entrepreneur may interacting with and receive support from. Over 500 participated virtually.

Transition

- Successfully transitioned 13 positions from Department of Health (DOH) to RLD.
- License renewals for existing cannabis producers were just completed.

PLANT COUNT

ISSUES THAT WILL IMPACT PLANT COUNT INCLUDE:

CANNABIS CONTROL DIVISION

1 Cost for Start-Up or Expansion

2 Access to Capital

3 Space to Grow Cannabis

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 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

PLANT COUNT (CONT'D)

Table 4. Modeling NM-Specific Demand Based on NM Qualtrics Survey Data

Category	Value
Total Grams	168,859,812
AU Grams	100,302,728
Med Grams	68,557,084
Total Pounds	372,759
AU Pounds	221,419
Med Pounds	151,340
AU Plants TOTAL in a Year	294,487
Med Plants TOTAL in a Year	201,282
Total Plants TOTAL in a Year	495,769
Plants per Harvest Cycle (TOTAL)	123,942
AU Plants per Harvest Cycle	73,622
AU Plants per Harvest Cycle per Producer	**2,231**
Med Plants per Harvest Cycle	50,321
Med Plants per Harvest Cycle per Producer	1,525

CANNABIS PUBLIC POLICY

Relying on Direct Estimation

495,769 Med/AU TOTAL DEMAND

Divide by 4 Seasons = 123,942 Plants per season

Divide by 33 licensees = **3,755 Plant count limit**

Testing failure and growing failure must be considered. All licensees will not have capacity to fully grow the plant count limit.

Factor in up to 50% growth and failure rate = 7,510

Recommended New Mexico License Tiers

- We combine the demand estimates and licensing tier analysis in the previous slides to create a new recommended tier system for New Mexico's regulated cannabis market. This proposed tier system is based on the following assumptions:

  - Total demand for New Mexico cannabis is estimated at 216,645 pounds in the mature market, which translates to a need for 828,537 harvested plants, 298,802 total plant allocations or 129,343 mature plant allocations once a 50 percent production capacity buffer is incorporated.

  - New Mexico will increase the number of cultivation licenses from the current 33 to 50 in order to accommodate the larger market.

  - Most licensees will be in the lower tiers due to capital constraints and the challenging regulatory compliance requirements with fewer very large cultivation operations. Licensees will likely maximize their allocations within their respective tier.

- This tier system approach accounts for the most recent trends in cannabis cultivation trends, market demand, production risks and market uncertainty, and variation in cultivation operation sizes.

RECOMMENDED CULTIVATION LICENSE TIERS – HARVESTED PLANTS, PLANT ALLOCATIONS, AND MATURE PLANT ALLOCATIONS

*Note:
Totals in this illustrative example do not exactly match the targets in the previous slide. There will likely be a different number of cannabis cultivators than pictured here.*

*Source:
MPG Consulting Analysis.*

Total Annual Harvested Plant Tiers	Licensees	Total Harvested Plants	Total Plant Allocation Tiers	Licensees	Total Plant Allocations	Mature Plant Allocation Tiers	Licensees	Mature Plant Allocations
Tier 1 (200 - 8,000)	33	264,000	Tier 1 (200 - 2,500)	33	82,500	Tier 1 (< 1,000)	33	33,000
Tier 2 (8,001 - 16,000)	9	144,000	Tier 2 (2,501 - 7,000)	9	63,000	Tier 2 (1,001 - 3,000)	9	27,000
Tier 3 (16,001 - 40,000)	3	120,000	Tier 3 (7,001 - 14,000)	3	42,000	Tier 3 (3,001 - 6,000)	3	18,000
Tier 4 (40,001 - 60,000)	5	300,000	Tier 4 (14,001 - 23,000)	5	115,000	Tier 4 (6,001 - 10,000)	5	50,000
Total	50	828,000	Total	50	302,500	Total	50	128,000

828,537 Med/AU TOTAL DEMAND

MPG Consulting

Relying on Demand Estimates

Divide by 4 Seasons = 207,134 Plants per season

Divide by 33 licensees = **6,277 Plant count limit**

Testing failure and growing failure must be considered. All licensees will not have capacity to fully grow the plant count limit.
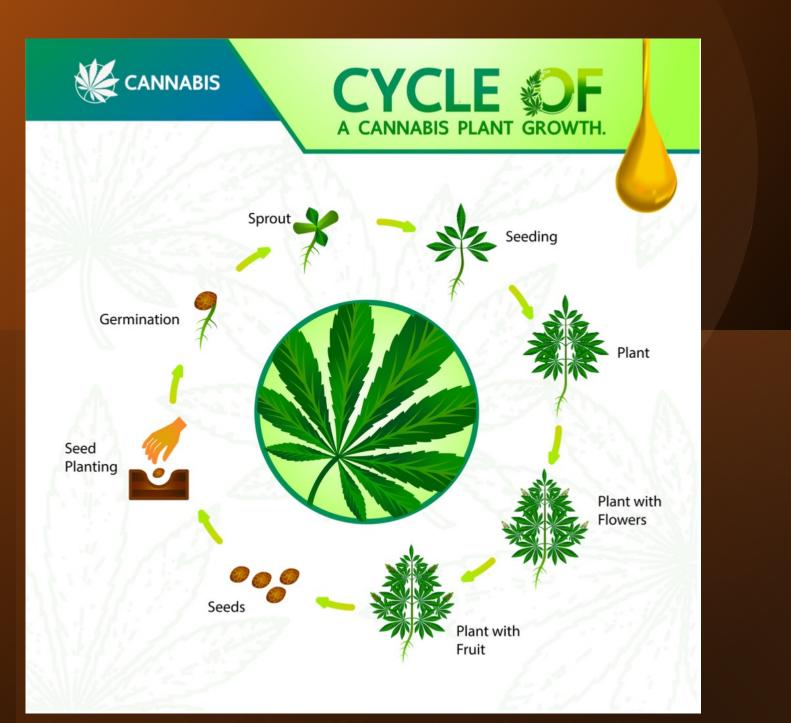
Factor in up to 50% growth and failure rate = 9,414

For purposes of the rules, the cannabis plant growth cycle is based on the following 4 stages:

(1) germination stage includes a seed sprouting to form a seedling and lasts 3-10 days;

(2) seedling stage includes a shoot emerging from the soil surface, eventually forming the first leaves and lasts 2-3 weeks;

(3) vegetative stage is the period of growth between germination and the beginning of flowering, including cloned cannabis plants, and lasts 3-16 weeks;

(4) flowering stage begins when a cannabis plant starts blooming, including pre-flowers with pistols that are visible, and lasts 6-8 weeks.

Mature cannabis plant: For purposes of this rule, a mature cannabis plant shall be a cannabis plant in the flowering stage.

INITIAL LICENSE DESIGNATION FACTORS

(1) applicant's requested mature cannabis plant limit level;

(2) applicant's demonstration of a legal right to use the quantity of water needed for the level of mature cannabis plants cultivated based on the applicant's cannabis cultivation plan;

(3) applicant's facility diagram and canopy size;

(4) if applicable, whether the applicant's reported number of mature cannabis plants harvested in the preceding 6 months was a minimum of 80 percent of applicant's authorized mature plant count limit;

(5) if applicable, whether the applicant's sales in the preceding 6 months met the minimum sale required for medical cannabis or medical cannabis products;

(6) if applicable, whether the applicant's total cannabis sales were a minimum of 75 percent of applicant's reported production of cannabis during the 6 months preceding applicant's request; and

(7) applicant's social equity plan, including race, ethnicity, gender, age, and residential status of licensee, controlling persons and employees of applicant and whether the applicant, controlling persons, employees or the locations where the cannabis products are produced are located in an underserved rural community, including tribal, acequia, land grant-merced, federally designated opportunity zone, or other rural historic communities.

DESIGNATED MATURE CANNABIS PLANT LEVELS

(1) Level 1: 201 – 1,000 mature cannabis plants;

(2) Level 2: 1,001 – 3,000 mature cannabis plants;

(3) Level 3: 3,001 – 6,000 mature cannabis plants; or

(4) Level 4: 6,001 – 8,000 mature cannabis plants.

Incremental increase: A licensee may increase the number of mature cannabis plants, at the time of renewal and one other time per year. An authorized mature cannabis plant count increase shall only be approved in increments of 500 mature cannabis plants.

Limit of incremental increase: A licensee may be allowed to increase its authorized mature cannabis plant count up to 4 increments at a time upon application and approval by the division.

Immature Plants: For purposes of calculating the maximum number of authorized mature Cannabis plants, the germination, seedling, and vegetative stages are classified as immature cannabis plants and are excluded from a licensees approved cannabis plant level.

Maximum cannabis plant count: In no event shall a licensee be permitted to grow more than 10,000 mature cannabis plants at one time.
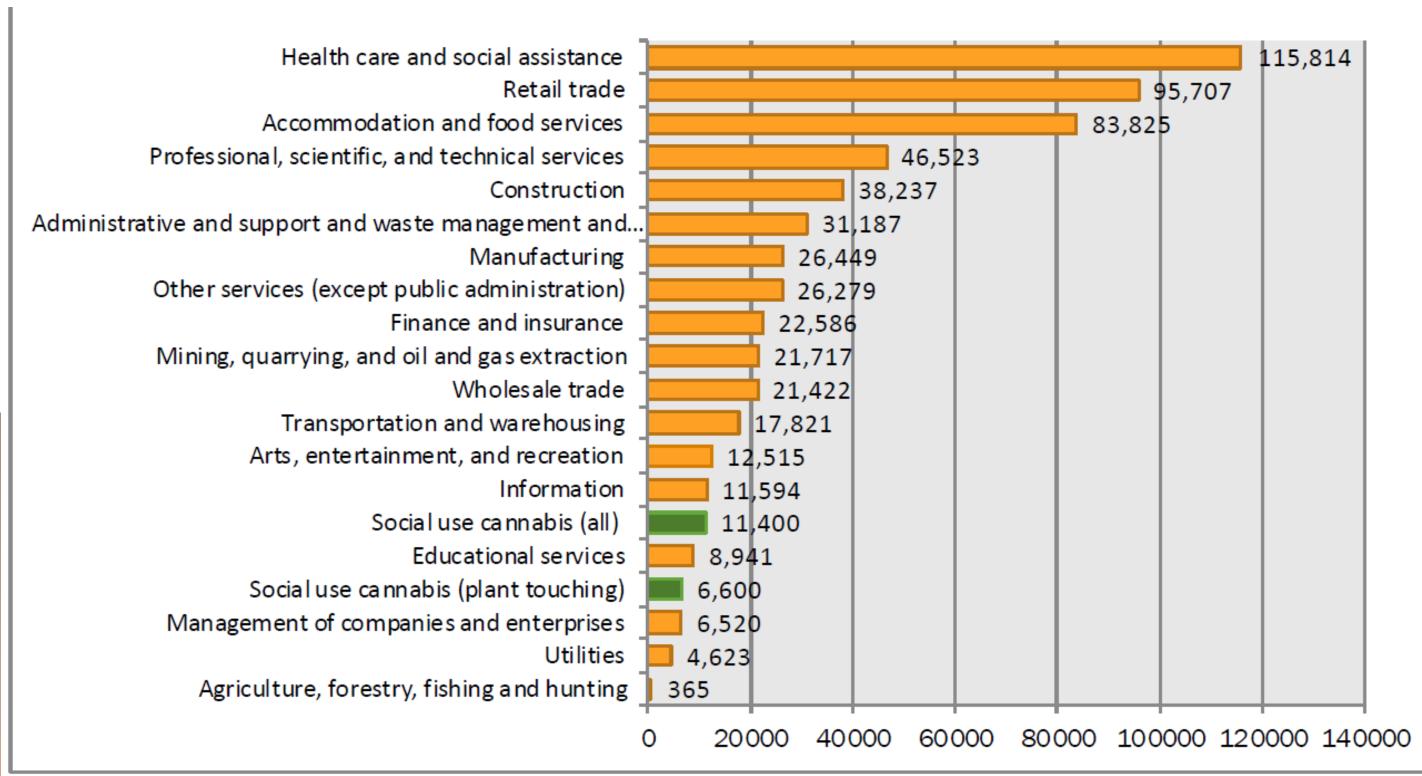
ECONOMIC IMPACT

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

Social Use Cannabis Employment

(plant touching and total) Relative to Other New Mexico Industries (legal sales, year 1)

Industry	Employment
Health care and social assistance	115,814
Retail trade	95,707
Accommodation and food services	83,825
Professional, scientific, and technical services	46,523
Construction	38,237
Administrative and support and waste management and...	31,187
Manufacturing	26,449
Other services (except public administration)	26,279
Finance and insurance	22,586
Mining, quarrying, and oil and gas extraction	21,717
Wholesale trade	21,422
Transportation and warehousing	17,821
Arts, entertainment, and recreation	12,515
Information	11,594
Social use cannabis (all)	11,400
Educational services	8,941
Social use cannabis (plant touching)	6,600
Management of companies and enterprises	6,520
Utilities	4,623
Agriculture, forestry, fishing and hunting	365

Source: U.S. Census Bureau, 2014 County Business Patterns and author calculation, see footnote e

Going
Forward

Contact Information

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