FINAL PROPOSED RULE # _____.

Final Proposed Filing - Coversheet

Instructions:

In accordance with Title 3 Chapter 25 of the Vermont Statutes Annotated and the "Rule on Rulemaking" adopted by the Office of the Secretary of State, this filing will be considered complete upon filing and acceptance of these forms with the Office of the Secretary of State, and the Legislative Committee on Administrative Rules.

All forms shall be submitted at the Office of the Secretary of State, no later than 3:30 pm on the last scheduled day of the work week.

The data provided in text areas of these forms will be used to generate a notice of rulemaking in the portal of "Proposed Rule Postings" online, and the newspapers of record if the rule is marked for publication. Publication of notices will be charged back to the promulgating agency.

PLEASE REMOVE ANY COVERSHEET OR FORM NOT REQUIRED WITH THE CURRENT FILING BEFORE DELIVERY!

Certification Statement: As the adopting Authority of this rule (see 3 V.S.A. § 801 (b) (11) for a definition), I approve the contents of this filing entitled:

Rule 1: Licensing of Cannabis Establishments

/s/ James Pepper , on 2/3/2022
(signature) (date)

Printed Name and Title:
James Pepper, Chair, Cannabis Control Board

RECEIVED BY: _____

- ☐ Coversheet
- ☐ Adopting Page
- ☐ Economic Impact Analysis
- ☐ Environmental Impact Analysis
- ☐ Strategy for Maximizing Public Input
- ☐ Scientific Information Statement (if applicable)
- ☐ Incorporated by Reference Statement (if applicable)
- ☐ Clean text of the rule (Amended text without annotation)
- ☐ Annotated text (Clearly marking changes from previous rule)
- ☐ ICAR Minutes
- ☐ Copy of Comments
- ☐ Responsiveness Summary

1. TITLE OF RULE FILING:
   Rule 1: Licensing of Cannabis Establishments
2. PROPOSED NUMBER ASSIGNED BY THE SECRETARY OF STATE
   21P038
3. ADOPTING AGENCY:
   Cannabis Control Board
4. PRIMARY CONTACT PERSON:
   (A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE).

   Name: David Scherr

   Agency: Cannabis Control Board

   Mailing Address: 89 Main Street, Montpelier, VT 05620-7001

   Telephone: (802)558-6022 Fax:

   E-Mail: david.scherr@vermont.gov

   Web URL *(WHERE THE RULE WILL BE POSTED)*:
   https://ccb.vermont.gov/
5. SECONDARY CONTACT PERSON:
   (A SPECIFIC PERSON FROM WHOM COPIES OF FILINGS MAY BE REQUESTED OR WHO MAY ANSWER QUESTIONS ABOUT FORMS SUBMITTED FOR FILING IF DIFFERENT FROM THE PRIMARY CONTACT PERSON).

   Name: Kimberley Lashua

   Agency: Cannabis Control Board

   Mailing Address: 89 Main Street, Montpelier, VT 05620-7001

   Telephone: (802)836-7708 Fax:

   E-Mail: kimberley.lashua@vermont.gov
6. RECORDS EXEMPTION INCLUDED WITHIN RULE:
   (DOES THE RULE CONTAIN ANY PROVISION DESIGNATING INFORMATION AS CONFIDENTIAL; LIMITING ITS PUBLIC RELEASE; OR OTHERWISE, EXEMPTING IT FROM INSPECTION AND COPYING?) Yes

   IF YES, CITE THE STATUTORY AUTHORITY FOR THE EXEMPTION:

   7 V.S.A. § 901(h)

   PLEASE SUMMARIZE THE REASON FOR THE EXEMPTION:

   The exemption keeps information confidential that is related to public safety, security, transportation, and trade secrets in order to keep citizens safe and participants in the cannabis industry on a fair commercial playing field.
7. LEGAL AUTHORITY / ENABLING LEGISLATION:

(THE SPECIFIC STATUTORY OR LEGAL CITATION FROM SESSION LAW INDICATING WHO THE ADOPTING ENTITY IS AND THUS WHO THE SIGNATORY SHOULD BE. THIS SHOULD BE A SPECIFIC CITATION NOT A CHAPTER CITATION).

7 V.S.A. § 843(b)(1)

8. EXPLANATION OF HOW THE RULE IS WITHIN THE AUTHORITY OF THE AGENCY:
   The following statutory citations provide legal authority for the provisions of the proposed rules: 7 V.S.A. §§ 843, 865, 866, 881, 883, 884, 901, 902, 903, 904, 907, Section 8 of Act 164 (2020).
9. THE FILING HAS CHANGED SINCE THE FILING OF THE PROPOSED RULE.
10. THE AGENCY HAS INCLUDED WITH THIS FILING A LETTER EXPLAINING IN DETAIL WHAT CHANGES WERE MADE, CITING CHAPTER AND SECTION WHERE APPLICABLE.
11. SUBSTANTIAL ARGUMENTS AND CONSIDERATIONS WERE RAISED FOR OR AGAINST THE ORIGINAL PROPOSAL.
12. THE AGENCY HAS INCLUDED COPIES OF ALL WRITTEN SUBMISSIONS AND SYNOPSES OF ORAL COMMENTS RECEIVED.
13. THE AGENCY HAS INCLUDED A LETTER EXPLAINING IN DETAIL THE REASONS FOR THE AGENCY'S DECISION TO REJECT OR ADOPT THEM.
14. CONCISE SUMMARY (**150 WORDS OR LESS**):
    Rule 1 regulates the licensing of any person or entity that seeks to participate in the legal market for cannabis.
15. EXPLANATION OF WHY THE RULE IS NECESSARY:
    The Cannabis Control Board is charged with implementing and regulating a legal market for cannabis in Vermont. This rule is necessary to implement and regulate that market.
16. EXPLANATION OF HOW THE RULE IS NOT ARBITRARY:
    There is extensive factual basis for this rule, the rule is rationally connected to the factual basis, and the Board believes the rule makes sense to a reasonable person.

    As discussed further below, in formulating these rules the Board has received extensive information from

agencies with expertise on relevant portions, incoporated the experience of other states in implementing and regulating their own cannabis markets, and heard input from many prospective market participants and others who will be affected by a legalized cannabis market in Vermont.

The decisions embodied by this rule is directly and rationally connected to the input the Board has received. The decisions made by the Board in drafting this rule will make sense to a reasonable person.

17. LIST OF PEOPLE, ENTERPRISES AND GOVERNMENT ENTITIES AFFECTED BY THIS RULE:

All individuals who seek to participate in a legal cannabis market either as consumers or sellers, businesses that seek to join the market, businesses that may service the cannabis industry, such as construction, HVAC, and agricultural enterprises, the Health Department, the Agency of Agriculture, Food, and Markets, the Board of Natural Resources, the Agency of Natural Resources, and others.

18. BRIEF SUMMARY OF ECONOMIC IMPACT (150 WORDS OR LESS):

This rule helps set the conditions to participate in a new market that will create extensive economic opportunities for residents of Vermont. Because the Board's rules are creating a new industry, existing small businesses will not be harmed. The rule will affect individuals and businesses looking to enter the adult-use cannabis market as well as consumers, ancillary businesses, and others. Due to the nature of cannabis production and sales, including cannabis' federal status, the market will be heavily regulated for public health and security reasons. But these regulations are designed to prioritize small businesses and social equity applicants as well as minimize the regulatory and cost burdens that fall on those businesses.

19. A HEARING WAS HELD.

20. HEARING INFORMATION
(THE FIRST HEARING SHALL BE NO SOONER THAN 30 DAYS FOLLOWING THE POSTING OF NOTICES ONLINE).

IF THIS FORM IS INSUFFICIENT TO LIST THE INFORMATION FOR EACH HEARING, PLEASE ATTACH A SEPARATE SHEET TO COMPLETE THE HEARING INFORMATION.

Date: 1/14/2022
Time: 11:00 AM
Street Address: 89 Main Street, Montpelier, VT
Zip Code: 05620-7001

Date:
Time: AM
Street Address:
Zip Code:

Date:
Time: AM
Street Address:
Zip Code:

Date:
Time: AM
Street Address:
Zip Code:

21. DEADLINE FOR COMMENT (NO EARLIER THAN 7 DAYS FOLLOWING LAST HEARING):
1/21/2022

KEYWORDS (PLEASE PROVIDE AT LEAST 3 KEYWORDS OR PHRASES TO AID IN THE SEARCHABILITY OF THE RULE NOTICE ONLINE).

Cannabis
Cannabis Control Board
Cannabis Establishment
Licensing
Licensing Cannabis Establishments

Adopting Page

Instructions:

This form must accompany each filing made during the rulemaking process:

Note: To satisfy the requirement for an annotated text, an agency must submit the entire rule in annotated form with proposed and final proposed filings. Filing an annotated paragraph or page of a larger rule is not sufficient. Annotation must clearly show the changes to the rule.

When possible, the agency shall file the annotated text, using the appropriate page or pages from the Code of Vermont Rules as a basis for the annotated version. New rules need not be accompanied by an annotated text.

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1. TITLE OF RULE FILING:
   Rule 1: Licensing of Cannabis Establishments
2. ADOPTING AGENCY:
   Cannabis Control Board
3. TYPE OF FILING (*PLEASE CHOOSE THE TYPE OF FILING FROM THE DROPDOWN MENU BASED ON THE DEFINITIONS PROVIDED BELOW*):

   - **AMENDMENT -** Any change to an already existing rule, even if it is a complete rewrite of the rule, it is considered an amendment if the rule is replaced with other text.
   - **NEW RULE -** A rule that did not previously exist even under a different name.
   - **REPEAL** - The removal of a rule in its entirety, without replacing it with other text.

   This filing is **A NEW RULE** .

4. LAST ADOPTED (*PLEASE PROVIDE THE SOS LOG#, TITLE AND EFFECTIVE DATE OF THE LAST ADOPTION FOR THE EXISTING RULE)*:

Economic Impact Analysis

Instructions:

In completing the economic impact analysis, an agency analyzes and evaluates the anticipated costs and benefits to be expected from adoption of the rule; estimates the costs and benefits for each category of people enterprises and government entities affected by the rule; compares alternatives to adopting the rule; and explains their analysis concluding that rulemaking is the most appropriate method of achieving the regulatory purpose. If no impacts are anticipated, please specify "No impact anticipated" in the field.

Rules affecting or regulating schools or school districts must include cost implications to local school districts and taxpayers in the impact statement, a clear statement of associated costs, and consideration of alternatives to the rule to reduce or ameliorate costs to local school districts while still achieving the objectives of the rule (see 3 V.S.A. § 832b for details).

Rules affecting small businesses (excluding impacts incidental to the purchase and payment of goods and services by the State or an agency thereof), must include ways that a business can reduce the cost or burden of compliance or an explanation of why the agency determines that such evaluation isn't appropriate, and an evaluation of creative, innovative or flexible methods of compliance that would not significantly impair the effectiveness of the rule or increase the risk to the health, safety, or welfare of the public or those affected by the rule.

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1. TITLE OF RULE FILING:

   Rule 1: Licensing of Cannabis Establishments

2. ADOPTING AGENCY:

   Cannabis Control Board

3. CATEGORY OF AFFECTED PARTIES:

   LIST CATEGORIES OF PEOPLE, ENTERPRISES, AND GOVERNMENTAL ENTITIES POTENTIALLY AFFECTED BY THE ADOPTION OF THIS RULE AND THE ESTIMATED COSTS AND BENEFITS ANTICIPATED:

   Individuals and companies that plan to enter the adult-use cannabis market, cannabis consumers, existing medical cannabis businesses, testing facilities, bank and insurance industries, the Cannabis Control Board, and local governments. There will be extraordinary economic benefits for the newly created small businesses that will come into existence because of

this rule, as well as benefits to consumers who can legally purchase cannabis on a regulated marketplace with consumer safety enforcement in place.

The nature of cannabis production and sales, including the federal status of cannabis, requires that the market be heavily regulated. But these are not additional burdens on existing Vermont businesses. They are the requirements to enter a new industry that is projected to grow to over $250,000,000 in annual sales within the next 5 years.

4. IMPACT ON SCHOOLS:
INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON PUBLIC EDUCATION, PUBLIC SCHOOLS, LOCAL SCHOOL DISTRICTS AND/OR TAXPAYERS CLEARLY STATING ANY ASSOCIATED COSTS:

Schools are not affected by these rules.

5. ALTERNATIVES: *CONSIDERATION OF ALTERNATIVES TO THE RULE TO REDUCE OR AMELIORATE COSTS TO LOCAL SCHOOL DISTRICTS WHILE STILL ACHIEVING THE OBJECTIVE OF THE RULE*.

Schools are not affected by these rules.

6. IMPACT ON SMALL BUSINESSES:
INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON SMALL BUSINESSES (EXCLUDING IMPACTS INCIDENTAL TO THE PURCHASE AND PAYMENT OF GOODS AND SERVICES BY THE STATE OR AN AGENCY THEREOF):

These rules will greatly expand opportunities for Vermont small businesses. The rules will set up a commercial adult-use cannabis system in Vermont that is likely to create hundreds of new business opportunities for outdoor cultivators, indoor cultivators, retailers, product manufacturers, and other licensed businesses. Additionally, these new businesses, which are designed to displace a large unregulated, illicit market will require many services from ancillary businesses, many of which will be small Vermont businesses.

As previously noted, the nature of cannabis production and sales, including the federal status of cannabis, requires that the market be heavily regulated. But these are not additional burdens on existing Vermont

businesses. They are the requirements to enter a new industry that is projected to grow to over $250,000,000 in annual sales within the next 5 years. The rules will provide certainty and clarity to potential businesses, safety for consumers, security for communities, and revenue for the state and municipalities. Implementing these rules will likely create over 100 new employers and over 1000 new jobs while generating tens of millions of dollars in annual tax and fee revenue for the state. These rules can help make Vermont a leader in promoting an equitable and small businesses-focused adult-use cannabis market.

7. SMALL BUSINESS COMPLIANCE: *EXPLAIN WAYS A BUSINESS CAN REDUCE THE COST/BURDEN OF COMPLIANCE OR AN EXPLANATION OF WHY THE AGENCY DETERMINES THAT SUCH EVALUATION ISN'T APPROPRIATE.*

   As noted above, due to the nature of cannabis production and sales, the industry will need to be heavily regulated. But this rule is designed to ease the burden of compliance for smaller businesses. For instance, the Board has exempted small cultivators from a number of regulatory requirements. Cultivation businesses are tiered in a way to encourage small farmers to enter the cannabis market.

8. COMPARISON:

   COMPARE THE IMPACT OF THE RULE WITH THE ECONOMIC IMPACT OF OTHER ALTERNATIVES TO THE RULE, INCLUDING NO RULE ON THE SUBJECT OR A RULE HAVING SEPARATE REQUIREMENTS FOR SMALL BUSINESS:

   For reasons explained above, this rule is required to implement adult-use cannabis sales. Every effort was made to incorporate the thoughts and concerns of potential new small businesses into the drafting of the rule, including numerous public comment sessions, an advisory committee process that listened to stakeholders, and an open public comment portal through our website. A completely separate rule for small businesses is impossible due to the integrated nature of the market and regulatory requirements necessary to safely operate an adult-use cannabis sale program, but this feedback helped identify the instances alluded to above where smaller businesses will face lower fees or less onerous regulations based on business size.

9. SUFFICIENCY: *DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.*

The Board has created these rules with extraordinary public input, including from prospective owners of new small businesses that intend to enter the market, and many other stakeholders. For its market size and revenue projections, the Board has relied on a sophisticated model developed by its consultant, VS Strategies, which is available on its website at this page: https://ccb.vermont.gov/market-structure (with the September 9, 2021 materials). A more complete summary of the input the Board has utilized in developing these rules may be found in the "Public Input Maximization Plan" portion of this filing.

Environmental Impact Analysis

Instructions:

In completing the environmental impact analysis, an agency analyzes and evaluates the anticipated environmental impacts (positive or negative) to be expected from adoption of the rule; compares alternatives to adopting the rule; explains the sufficiency of the environmental impact analysis. If no impacts are anticipated, please specify "No impact anticipated" in the field.

Examples of Environmental Impacts include but are not limited to:

- Impacts on the emission of greenhouse gases
- Impacts on the discharge of pollutants to water
- Impacts on the arability of land
- Impacts on the climate
- Impacts on the flow of water
- Impacts on recreation
- Or other environmental impacts

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1. TITLE OF RULE FILING:

   Rule 1: Licensing of Cannabis Establishments

2. ADOPTING AGENCY:

   Cannabis Control Board

3. GREENHOUSE GAS: *EXPLAIN HOW THE RULE IMPACTS THE EMISSION OF GREENHOUSE GASES (E.G. TRANSPORTATION OF PEOPLE OR GOODS; BUILDING INFRASTRUCTURE; LAND USE AND DEVELOPMENT, WASTE GENERATION, ETC.):*
   The act of licensing itself, which will entail the submission and review of applications, likely utilizing a web portal, will have a minimal environmental impact. But the creation of a legalized cannabis market will an environmental impact. These environmental impacts are more fully discussed in the filing documents that accompany Board Rule 2, which regulates the functioning of the legalized market. The impacts that are arguably related to the licensing structure are also addressed in this summary.

4. There will be minimal greenhouse gas impact due to the licensing process.

5. WATER: *EXPLAIN HOW THE RULE IMPACTS WATER (E.G. DISCHARGE / ELIMINATION OF POLLUTION INTO VERMONT WATERS, THE FLOW OF WATER IN THE STATE, WATER QUALITY ETC.):*
   Section 1.5.2 – requiring pre-authorization of new operations will not stress current water usage or discharge wastewater treatment facilities. Section 1.15.4 – License renewal information requirements – energy efficiency and water benchmarks, actual pesticide application and usage will be required for cultivators to help the Board measure the strain that cultivation puts on our waterways.

Impacts on groundwater – due to the size of individual cultivation sites, water demand on a per site basis would have limited impact but cumulative impact of all cultivation sites has the potential to be significant.

6. LAND: *EXPLAIN HOW THE RULE IMPACTS LAND (E.G. IMPACTS ON FORESTRY, AGRICULTURE ETC.):*
   By creating a Tiered System with cultivation size limitations that are significantly smaller than traditional/conventional agriculture, the environmental impacts on a per site basis are presumed to be negligible to insignificant in relation to current farming operations, especially when compared to the average Vermont farm size. The total cumulative impacts of all proposed licenses have the potential to impact the environment. A positive impact of this rule is that by incorporating legacy growers into a licensing and oversight system, negative environmental practices are mitigated and more operations will be subject to Vermont land use regulations and included in supportive programs. The cultivation licensing tiers favor a small cultivation footprint in comparison to traditional agriculture. Small farmers will have more control over their land and be more proactive and perceptive to any negative impacts their practices may have on the environment and local ecology. Smaller farms will also mean more licenses and the total cumulative impact may

be more significant over a greater area. There is likely insignificant impact to local biodiversity due to historical disturbance from intensive agriculture in the state.

7. RECREATION: *EXPLAIN HOW THE RULE IMPACT RECREATION IN THE STATE:*
   There will be no impact on recreation.
8. CLIMATE: *EXPLAIN HOW THE RULE IMPACTS THE CLIMATE IN THE STATE:*
   Certain methods of manufacturing can off-gas into the environment, and may require a certain level of investment and expertise to ensure recirculation and other techniques are utilized to minimize climate impacts.
9. OTHER: *EXPLAIN HOW THE RULE IMPACT OTHER ASPECTS OF VERMONT'S ENVIRONMENT:*

Our market analysis currently indicates the market will only need approximately 15 total acres across the entire state to accommodate demand, with a majority of that coming from indoor controlled environmental agriculture production. For this reason, there is minimal potential for conversion or over-covering of prime soils. There is also minimal potential loss of prime soils from current, or agricultural, use. The Board can encourage cover cropping and rotation of outdoor grow operations at a site to mitigate soil depletion.

10. SUFFICIENCY: *DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.*
    For this analysis, the Board has relied on a review of the proposed rules by Jacob Policzer, an outside expert in environmental and sustainability issues related to cannabis.

Public Input Maximization Plan

Instructions:

Agencies are encouraged to hold hearings as part of their strategy to maximize the involvement of the public in the development of rules. Please complete the form below by describing the agency's strategy for maximizing public input (what it did do, or will do to maximize the involvement of the public).

This form must accompany each filing made during the rulemaking process:

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1. TITLE OF RULE FILING:

   Rule 1: Licensing of Cannabis Establishments

2. ADOPTING AGENCY:

   Cannabis Control Board

3. PLEASE DESCRIBE THE AGENCY'S STRATEGY TO MAXIMIZE PUBLIC INVOLVEMENT IN THE DEVELOPMENT OF THE PROPOSED RULE, LISTING THE STEPS THAT HAVE BEEN OR WILL BE TAKEN TO COMPLY WITH THAT STRATEGY:

   The Board's strategy has been, and will continue to be, to hear from all possible stakeholders in a legal cannabis market.

   The Board has already sought and received extraordinary public involvement and input in the development of these rules. Since the Board was seated in May, 2021, the Board has held more than 30 Board meetings, each of which was noticed, recorded, open to the public, and accessible to all through electronic means, and each included a public comment session. The Board has also received more than 100 written comments submitted through its website. During its meetings the Board has heard from small cannabis cultivators and cannabis policy advocates, experts on racial justice and social equity issues and individuals with lived experience of such issues, medicinal cannabis patients and experts, public health experts and advocates, environmental and energy experts and advocates, agricultural experts and

advocates, and more. The Board has considered all of this input in formulating its rules.

In addition to the Board's own meetings, the Board's Advisory Committee (provided for by 7 V.S.A. § 843(h)) has met four times, and its Advisory Committee subcommittees have met more than 70 times. Each Advisory Committee and subcommittee meeting was noticed, recorded, open to the public, and included a public comment period. The subcommittees consulted experts and advocates on various aspects of cannabis policy and they produced recommendations for the Board that have been considered by the Board in formulating the proposed rules.

Outside of the formal meetings, board members have individually had extensive discussions with members of the public and various experts and advocates.

A consultant working for the Board, the National Association of Cannabis Businesses, held two Social Equity Town Halls and have met with many Vermonters in order to provide informed advice regarding the Board's social equity policies. The Board has also worked with VS Strategies, a cannabis policy consulting firm that has brought national regulatory experience and economic expertise to the Board's efforts to design a functional market.

The Board plans to hold more than one public hearing during the notice and comment period for these rules, and plans to engage seriously with comments that it receives during the notice and comment period. The Board is ready to make appropriate amendments to the rules in the basis of that feedback.

4. BEYOND GENERAL ADVERTISEMENTS, PLEASE LIST THE PEOPLE AND ORGANIZATIONS THAT HAVE BEEN OR WILL BE INVOLVED IN THE DEVELOPMENT OF THE PROPOSED RULE:

In addition to the people and organizations named above, the Board has relied extensively on the expertise of other Vermont state government agencies. The Department of Health helped design warning labels and packaging. The Agency of Agriculture, Food, and Markets provided expertise on laboratory testing and cannabis cultivation issues. The Department of Public Service provided expertise on building and energy standards. The Agency of Natural Resources assisted with environmental standards. The Natural Resources Board consulted on matters related to Act 250.

The Board will continue to seek the advice of experienced regulators to ensure any changes that may be made during the notice and comment period are consistent with the best practices of regulatory experts in the relevant field.

Scientific Information Statement

THIS FORM IS ONLY REQUIRED IF THE RULE RELIES ON SCIENTIFIC INFORMATION FOR ITS VALIDITY.

PLEASE REMOVE THIS FORM PRIOR TO DELIVERY IF IT DOES NOT APPLY TO THIS RULE FILING:

Instructions:

In completing the Scientific Information Statement, an agency shall provide a summary of the scientific information including reference to any scientific studies upon which the proposed rule is based, for the purpose of validity.

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1. TITLE OF RULE FILING:

   Rule 1: Licensing of Cannabis Establishments

2. ADOPTING AGENCY:

   Cannabis Control Board

3. BRIEF EXPLANATION OF SCIENTIFIC INFORMATION:

   These are not primarily rules that are based on scientific information, but portions touch on scientific issues. These portions include laboratory testing, building and energy standards, and environmental standards.

4. CITATION OF SOURCE DOCUMENTATION OF SCIENTIFIC INFORMATION:

   The laboratory testing standards were largely drafted by the Agency of Agriculture, Food, and Markets, based on their own Cannabis Quality Control Program, with appropriate amendments for the adult use market. The Public Service Department's Commercial Building Energy Standards provided the basis for energy standards, with appropriate amendments as stated in Rule 2, for the adult use cannabis market. Rules from the Agency of Natural Resources Department of Environmental Conservation provided the basis for regulations regarding water usage.

5. INSTRUCTIONS ON HOW TO OBTAIN COPIES OF THE SOURCE DOCUMENTS OF THE SCIENTIFIC INFORMATION FROM THE AGENCY OR OTHER PUBLISHING ENTITY:

   Information from the Agency of Agriculture's Cannabis Quality Control Program can be found here: https://agriculture.vermont.gov/public-health-agricultural-resource-management-division/hemp-program/hemp-potency-and-contaminant. The Commercial Building Energy Standards can be found here: https://publicservice.vermont.gov/energy_efficiency/cbes. Water usage regulations can be found here: https://dec.vermont.gov/water.

Incorporation by Reference

THIS FORM IS ONLY REQUIRED WHEN INCORPORATING MATERIALS BY REFERENCE. PLEASE REMOVE PRIOR TO DELIVERY IF IT DOES NOT APPLY TO THIS RULE FILING:

Instructions:

In completing the incorporation by reference statement, an agency describes any materials that are incorporated into the rule by reference and how to obtain copies.

This form is only required when a rule incorporates materials by referencing another source without reproducing the text within the rule itself (e.g., federal or national standards, or regulations).

Incorporated materials will be maintained and available for inspection by the Agency.

1. TITLE OF RULE FILING:

   Rule 1: Licensing of Cannabis Establishments

2. ADOPTING AGENCY:

   Cannabis Control Board

3. DESCRIPTION (*DESCRIBE THE MATERIALS INCORPORATED BY REFERENCE)*:

   The Board incorporated a portion of the Code of Federal Regulations regarding Disadvantaged Business Enterprises into its definition of social equity applicant. This rule references Board Rule 2, filed at the same time as this rule.

4. FORMAL CITATION OF MATERIALS INCORPORATED BY REFERENCE:
   The citations for the incorporated regulations are: 49 C.F.R. § 26.67(a)(1) and (b)(2)-(3), 49 C.F.R. § 26.69 and 49 C.F.R. § 26.71. The Secretary of State has given Board Rule 2 the citation: 21P039.

5. OBTAINING COPIES: *(EXPLAIN WHERE THE PUBLIC MAY OBTAIN THE MATERIAL(S) IN WRITTEN OR ELECTRONIC FORM, AND AT WHAT COST)*:

   Copies of the relevant sections may be found here at no cost: https://www.ecfr.gov/current/title-49/subtitle-A/part-26/subpart-D/section-26.67,

https://www.ecfr.gov/current/title-49/subtitle-A/part-26/subpart-D/section-26.69, https://www.ecfr.gov/current/title-49/subtitle-A/part-26/subpart-D/section-26.71.

Other Board rules can be accessed at no cost on the Board's website: https://ccb.vermont.gov/.

6. MODIFICATIONS (*PLEASE EXPLAIN ANY MODIFICATION TO THE INCORPORATED MATERIALS E.G., WHETHER ONLY PART OF THE MATERIAL IS ADOPTED AND IF SO, WHICH PART(S)ARE MODIFIED)*:

The federal regulations are modified as described in proposed Rule 1.1.3(k) and (l).

Run Spell Check

STATE OF VERMONT
CANNABIS CONTROL BOARD

RULE 1: LICENSING OF CANNABIS ESTABLISHMENTS

1.11 Criminal Records and License Qualification Determinations

1.11.1 Effect of Criminal Records on Application
1.11.2 Presumptive Disqualification
1.11.3 Overcoming Presumptive Disqualification

1.12 Issuance of Licenses

1.13 Prequalification Approval

1.13.1 Purpose of Prequalification Approval
1.13.2 Limits of Prequalification Approval
1.13.3 Forms and Fees for Prequalification Approval
1.13.4 Prequalification Approval Application Acceptance Periods
1.13.5 Prequalification Approval Application and Issuance
1.13.6 Converting a Prequalification Approval to a Full License Application

1.14 Priority of Board Considerations for License Applications

1.15 License Renewal Procedures

1.15.1 License Renewal Timeframes
1.15.2 License Renewal Form and Fees
1.15.3 License Renewal Information Requirements
1.15.4 Conditions For Renewal

1.16 Cannabis Establishment Identification Cards

1.16.1 Identification Cards for Owners and Principals
1.16.2 Forms and Fees for Cannabis Establishment Identification Cards
1.16.3 Application Requirements for Cannabis Establishment Identification Cards
1.16.4 Qualification for Cannabis Establishment Identification Cards
1.16.5 Temporary Work Permit
1.16.6 Ongoing Duty to Disclose
1.16.7 Identification Card Renewal

1.17 Change of License Control or Change of License Location Requires a License Renewal Application

1.18 Waiver Provisions for Tier 1 Cultivators

1.19 Applicant’s Ongoing Duty to Disclose

1.20 Confidentiality

1. Rule 1: Licensing of Cannabis Establishments

Not every applicable prohibition, restriction, and requirement is contained in this rule. All Cannabis Establishments must abide by the prohibitions, restrictions, and requirements of Chapter 33, Title 7 of the Vermont Statutes. Cannabis Establishments must also abide by all other applicable laws, including but not limited to worker's compensation laws and tax laws.

1.1 General Provisions

1.1.1 Authority

The Cannabis Control Board adopts this rule pursuant to 7 V.S.A. §§ 881, 883, 884, 901, 902, 903, Section 8 of Act 164 (2020), and other applicable law.

1.1.2 Scope and Purpose

The Board is charged with implementing and regulating a legal market for Cannabis in Vermont. This rule regulates the licensing of Cannabis Establishments.

1.1.3 Definitions

All definitions in 7 V.S.A. § 861 shall apply to this rule. The following definitions shall also apply:

(a) "Commercial bank" has the same meaning as defined in 8 V.S.A. § 11101(15).
(b) "Employee" has the same meaning as defined in 21 V.S.A. § 481(5), provided that the applicable exceptions shall be 21 V.S.A. § 481(5)(B), (G), and (H).
(c) "Entity" means any person, as defined in 7 V.S.A. § 861(23), that is not a natural person.
(d) "Flammable Solvent" means a liquid that has a flash point below 100 degrees Fahrenheit.
(e) "Greenhouse" means a structure or a thermally isolated area of a building that maintains a specialized sunlit environment exclusively for, and essential to, the cultivation or maintenance of Cannabis plants and that is in use for a period of 180 days or more each calendar year.
(f) "Home occupancy business" means a business operated on the premises of an individual's home or property where the individual is domiciled.
(g) "Indoor cultivation" means growing Cannabis using artificial lighting.
(h) "Interest holder" has the same meaning as defined in 11A V.S.A. § 11.01(11).
(i) "Inventory Tracking System" means a method implemented by the Board for tracing all Cannabis and Cannabis Products grown, manufactured, and sold in Vermont.
(j) "Licensee" means a person who has been issued a license pursuant to this rule. A licensee does not include a person who has been issued a prequalification approval.
(k) "Outdoor cultivation" means growing Cannabis in an expanse of open or cleared ground or in a structure that does not use artificial lighting and is not a greenhouse.
(l) "Physical site of operations" means:

i. A cultivator's grow site,
ii. A wholesaler's product storage facility,
iii. A manufacturer's site of manufacture,
iv. A retailer's store location, or
v. A testing laboratory's testing facility.

(m) "Prequalification approval" means a certification issued by the Board, in accordance with this rule, prior to a person's approval as a licensee. A prequalification approval does not permit the recipient to operate a Cannabis Establishment.

(n) "Social equity applicant" means either a "social equity individual applicant" or a "social equity business applicant" as those terms are defined in this rule.

(o) "Social equity individual applicant" means an individual who is a resident of Vermont and who meets one or more of the following criteria:

i they are a socially disadvantaged individual, as defined below,
ii they have been incarcerated for a cannabis-related offense, or
iii they have a family member who has been incarcerated for a cannabis-related offense.

1 For the purposes of this definition, "family member" shall mean the following: a spouse, domestic partner (as defined in 17 V.S.A. §2414(e)(1)), child, step-child who resided with the family member when the child was a minor, minor in their guardianship, legal guardian, parent, sibling, grandparent, or grandchild.

(p) "Social equity business applicant" means a corporation, partnership, or other business entity that meets the federal standards for Disadvantaged Business Enterprises (DBEs) as set forth in 49 C.F.R. §§ 26.69 and 26.71, except as provided in subdivision (i) of this subsection 1.1.3(p), even if the entity has not applied for any federal DBE programs. In determining whether a business applicant meets the federal standards for DBEs, the Board will consider only participants in the business who meet the definition of socially disadvantaged individual as defined by section 1.1.3(q)(i) of this rule and who are residents of Vermont.

i The requirements of subparts 49 C.F.R. § 26.69(b)(1), (2), and (3) shall not apply to this subsection (p). The majority-interest requirement of 49 C.F.R. § 26.69(b) itself shall apply.

(q) "Socially disadvantaged individual" is an individual who meets at least one of the following criteria:

i They meet the criteria for social disadvantage as set forth in the following federal regulations regarding DBEs: 49 C.F.R. § 26.67(a)(1) and (b)(2)-(3) to the extent permitted in subdivision 1.1.3(q)(i)(1) of this section, whether or not they have applied for any DBE programs, provided that no person shall be excluded from this definition because of their citizenship or immigration status.

1 For the purposes of this rule, the rebuttable presumption in 49 C.F.R. § 26.67(a)(1) shall be applied only to Black Americans and Hispanic Americans.

ii They are (1) from a community that has historically been disproportionately impacted by cannabis prohibition and (2) able to demonstrate to the Board that they were personally harmed by the disproportionate impact. In assessing this

personal harm, the Board may consider factors such as educational impacts, lost employment opportunities, or housing insecurity.

1.1.4 Applicability

This rule applies to persons who engage in the transfer or sale of Cannabis or Cannabis Products, including transfers or sales related to cultivating, manufacturing, wholesaling, or retailing Cannabis or Cannabis Products, except that this rule does not apply to activities regulated by Chapters 35 and 37 of Title 7 of the Vermont statutes and by Rule 3 of the Board's rules. This rule also applies to those who provide laboratory testing services to persons who engage in the transfer or sale of Cannabis or Cannabis Products.

1.1.5 Time

(a) In computing any time period, measured in days, that is established or allowed by this rule or by order of the Board or Chair:
    (1) the day of the act or event that triggers the period shall be excluded;
    (2) every day, including intermediate Saturdays, Sundays, and legal holidays shall be counted;
    (3) the last day of the period shall be counted, but if the last day is a Saturday, Sunday, or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday.
(b) A "legal holiday" means:
    (1) any day declared a holiday by the President or Congress of the United States; and
    (2) any day declared a holiday by the State of Vermont.

1.1.6 Severability

If any portion of this rule is found to be invalid, the remaining portion of the rule shall remain in force and effect.

1.2 License Application Format and Fees

1.2.1 Form

Applicants are required to submit an application in a format determined by the Board. The Board will make the application form readily accessible to the public.

1.2.2 Fees

Applicants will be required to pay fees, or demonstrate that they qualify for a fee waiver or reduction, in accordance with a fee schedule and waiver or reduction policy that the Board will make readily accessible to the public. The fee waiver or reduction policy will include a schedule of waivers and reductions for social equity applicants.

1.3 License Tiers

The Board establishes the following tiers for cultivation, retail, and manufacturing licenses.

1.3.1 Cultivation License Tiers

(a) Outdoor Cultivation:

i.

Tier	Max Sq Ft of Total Plant Canopy
1	1,000
2	2,500
3	5,000
4	10,000
5	20,000
6	37,500

ii. For tiers 1-6 of the outdoor cultivation tiers in this subsection (a), the Board will presume that each plant occupies no more than 8 square feet of space. For this reason, cultivators will be presumed to be compliant with the plant canopy limits if they comply with the following plant count limits:

1. Tier 1: 125
2. Tier 2: 312
3. Tier 3: 625
4. Tier 4: 1250
5. Tier 5: 2,500
6. Tier 6: 4,687

Growing more than the maximum plant count for the cultivator's tier will not be a violation of the plant canopy limit if the cultivator can show the plants occupy no more than the maximum square footage permitted for their tier.

iii. Applicants will be required to state on their application if they will measure their plant canopy by square footage or by plant count equivalent.

iv. Plants do not need to be contiguous, but they must be planted within the same school property account number (SPAN) or within two abutting SPANs. A SPAN will be considered abutting if it shares a boundary with a SPAN, or if it is adjacent to a SPAN and is separated only by a river, stream, or public highway.

(b) Indoor Cultivation:

Tier	Max Sq Ft of Total Plant Canopy
1	1,000
2	2,500
3	5,000

4	10,000
5	15,000
6	25,000

(c)

i. Mixed Cultivation:

Tier	Nature of Business
1	May cultivate up to 1,000 sq ft of plant canopy indoors and up to 125 plants outdoors at the same premises
2	May cultivate up to 2,500 sq ft of plant canopy indoors and up to 312 plants outdoors at the same premises
3	May cultivate up to 1,000 sq ft of plant canopy indoors and up to 625 plants outdoors at the same premises
4	May cultivate up to 1,000 sq ft of plant canopy indoors and up to 1250 plants outdoors at the same premises
5	May cultivate up to 1,000 sq ft of plant canopy indoors and up to 2,500 plants outdoors at the same premises

ii. Plants in the outdoor portion of a mixed cultivator's crop do not need to be contiguous, but they must be planted within the same school property account number (SPAN) or within two abutting SPANs. A SPAN will be considered abutting if it shares a boundary with a SPAN, or if it is adjacent to a SPAN and is separated only by a river, stream, or public highway.

1.3.2 Retail License Tiers

Retail – Storefront: This tier is a stand-alone retail location that sells Cannabis and Cannabis Products to consumers.

1.3.3 Manufacturing License Tiers

No manufacturer may violate a prohibition on manufacturing processes contained in 18 V.S.A. § 4230h.

(a) Tier 1 Manufacturer: A tier 1 manufacturer may, purchase, process, manufacture,

transfer, and sell Cannabis as well as finished and in-process Cannabis Products to other Licensees but not directly to consumers. A tier 1 manufacturer may produce Cannabis Products using all lawful methods of extraction.

(b) Tier 2 Manufacturer: A tier 2 manufacturer may purchase, process, manufacture, transfer, and sell Cannabis as well as finished and in-process Cannabis Products to other Licensees but not directly to consumers. A tier 2 manufacturer may produce Cannabis Products using the following methods but may not utilize unapproved flammable solvent chemical extraction or flammable solvent chemical synthesis:

i. Water-Based Extraction: extraction using only water, ice, or other freezing substrate or process as approved by the Board.
ii. Food-Based Extraction: extraction using propylene glycol, glycerin, butter, coconut or olive oil, other typical cooking fats, or alcohol as approved by the Board.
iii. Heat/Pressure-Based Extraction: extraction using heat and/or pressure as approved by the Board.

(c) Tier 3 Manufacturer: A tier 3 manufacturer may purchase, process, manufacture, transfer, and sell Cannabis as well as finished and in-process Cannabis Products to other Licensees but not directly to consumers. A tier 3 manufacturer may produce Cannabis Products using the same methods as a tier 2 manufacturer, but not a tier 1 manufacturer. A tier 3 manufacturer must be a home occupancy business with no more than one employee, and under $10,000 in gross revenue each year.

1.3.4 Changing Tiers

A licensee may change to a different tier within their license type upon renewal of their license pursuant to section 1.15 of this rule, provided that they meet all other renewal requirements. Upon renewal the licensee must pay the fees associated with the tier they seek to enter.

1.4 License Application Requirements for All License Types

The requirements in this section apply to all license types authorized under 7 V.S.A. § 901.

1.4.1 Operating plans

Applicants must present an operating plan, which shall include all requirements of 7 V.S.A. § 881(a)(1)(B)(i) and, to the extent they are not required by that provision, the following elements:

(a) The proposed Cannabis Establishment's legal name and any registered alternate name under which it may conduct business.
(b) The name of the individual who will serve as primary point of contact with the Board and an email address where the individual can be contacted.
(c) The type of license sought and, if relevant, the license tier.
(d) Documentation that the applicant is an entity registered to do business in Vermont;
(e) A federal tax identification number and social security numbers for each principal of the

proposed Cannabis Establishment and each natural person who controls the proposed Cannabis Establishment.

(f) A list of the principals of the proposed Cannabis Establishment.
(g) A list of all persons having control of the proposed Cannabis Establishment.
(h) Whenever a person having control of a Cannabis Establishment is an entity, the applicant must provide:
    i. a list of the principals of any entities having control of the Cannabis Establishment; and
    ii. a list of natural persons who control any entities having control of the Cannabis Establishment.

    Lists provided pursuant to this subsection 1.4.1(h) shall include without limitation natural persons who have control by way of beneficial ownership or record ownership. Intervening entities do not relieve an applicant of the obligation of disclosure under this provision.
(i) Documentation and description, including the persons involved, of any contractual, management, or other agreement that explicitly or implicitly conveys control over the Cannabis Establishment.
(j) For each person identified in (f) through (i) of this subsection, disclose whether that person would be required to be identified pursuant to (f) through (i) of any other license application.
(k) Documentation disclosing whether any person named in sections (f) through (i) of this subsection is a controlling interest holder in a past or present Cannabis-related business in another jurisdiction.

1.4.2 Record Checks

An applicant, principal of an applicant, and person who controls an applicant, who is a natural person, shall be 21 years of age or older and shall consent to the release of his or her criminal and administrative records.

Each applicant, principal of an applicant, and person who controls an applicant, who is a natural person, shall submit the following:

(a) the individual's full legal name and any aliases;
(b) the individual's address;
(c) the individual's date of birth;
(d) a photocopy of the individual's driver's license or other government-issued identification card;
(e) a full set of fingerprints in a form and manner as determined by the Board;
(f) any other authorization or disclosure deemed necessary by the Board for the purpose of conducting a background check;
(g) a description of any criminal action against an applicant, principal, or person who controls an applicant in any jurisdiction that resulted in a conviction, guilty plea, plea of nolo contendere or admission to sufficient facts;
(h) a description of any civil action that was commenced or resolved in the preceding 10 years in any jurisdiction in which the applicant, principal, or person who controls an

applicant is or was a named party;

(i) a description of any administrative action taken against the applicant, principal, or person who controls an applicant in any jurisdiction;

(j) a description of any disciplinary action against a license, registration, or certification held by the applicant, principal, or person having control of an applicant, such as a suspension or revocation, including, but not limited to, a license to prescribe or distribute controlled substances; and

(k) a description of any license denial, and the reasons for denial, in any jurisdiction.

The Board at its discretion may request any of the information described in subsections (g) through (k) of this section 1.4.2 for any natural person an applicant discloses pursuant to section 1.4.1(h) of this rule.

1.4.3 Financiers

(a) Applicants must disclose documentation detailing the sources and amounts of capital resources available to the applicant from any person that will be contributing capital resources to the applicant for the purposes of establishing or operating the proposed Cannabis Establishment.

(b) In addition to the disclosure requirements for applicants, principals, and persons who control an applicant in section 1.4.1 of this rule, financiers of applicants who do not fall into one of those categories must be 21 years of age and may be subject to the following requirements at the Board's discretion, provided that this subsection shall not apply to commercial banks:

i. A requirement to disclose information to the Board or the Department of Financial Regulation;

ii. a requirement to conduct a background check for natural persons who are financiers or who control financiers;

iii. a requirement to disclose principals and natural persons who control a financier to the same extent required by section 1.4.1(h) of this rule; and

iv. requirements to ensure that a financier complies with any applicable State and federal laws governing financial institutions, licensed lenders, and other financial service providers.

1.4.4 Compliance and Management Plans

All applicants must:

(a) submit a contingency and continuity plan that addresses the dispersal or disposal of inventory in the event of an abrupt closure;

(b) submit a timeline for beginning operations of the Cannabis Establishment;

(c) attest that they will comply with applicable municipal ordinances; and

(d) attest that they will comply with required inspections or permits from other state and local agencies (for example, certificates of occupancy).

Applicants who intend to hire, or who have hired, employees must provide:

(e) an overview of positions and staffing levels;

(f) an overview of general roles and responsibilities of staff;
(g) an overview of the management structure; and
(h) employee hiring and training plan, including safety training.

1.4.5 Insurance, Taxation, and Banking Requirements

Each applicant shall submit the following:

(a) documentation of insurance coverage as required by Board Rule 2.2.2;
(b) documentation of bond or escrow for cessation of operation of a Cannabis Establishment costs in an amount to be determined by Board guidance;
(c) documentation of compliance with, or plan to comply with, worker's compensation requirements, if applicable;
(d) confirmation of current Vermont tax compliance, or confirmation of a plan with the Department of Taxes to come into compliance, provided that this does not apply to tax liability from income related to Cannabis businesses;
(e) state tax identification number and school property account number at the physical site of operations;
(f) authorization to release information to other state agencies, or to banking entities with whom the applicant seeks to bank; and
(g) sufficient documentation, as determined by the Board, of one of the following:
    i. a deposit account with a financial institution; or
    ii. evidence of an attempt to open such an account along with a cash management plan.

1.4.6 Location Information

Applicants must provide both:
(a) A business address as well as precise location information for the physical site of operations for the proposed Cannabis Establishment. A business address does not have to correspond with the physical site of operations. The location information for the physical site of operations must be in the form of GPS coordinates. GPS coordinates must be provided in Decimal Degrees (DD) format.
(b) Proof that the applicant has a right to occupy the physical site of operations, through proof of ownership, a lease, or other document demonstrating a right to occupy and use the property, or proof that such a right will exist prior to the start of Cannabis Establishment operations.

1.4.7 Security

All applicants must submit a plan to comply with security requirements relevant to any license or licenses they seek to obtain, as required by Board Rule 2.

1.4.8 Information Sharing with State Agencies

By applying, an applicant consents to the Board sharing applicant information with other Vermont state agencies, including, but not limited to, the Department of Financial Regulation, the Department of Labor, and the Department of Taxes. Information deemed confidential by 7 V.S.A. § 901(h) will remain confidential even if it is in the possession of another state agency.

1.4.9 Plans Related to Positive Impact Criteria

(a) To the extent required in subsection (b), applicants must include plans related to the criteria listed in subsections (c) and (d). Failure to do so will not result in disqualification of their application but will pause their license approval process until they provide the relevant plan information. To the extent required by this section and section 1.15.3 of this rule, reports related to these criteria will be required for license renewal.
(b) Applicants that are not testing laboratories must show plans for completion of the criteria in subsection (c) and (d) to the following extent:
    i. Corporations, partnerships, or other business entities that are not sole proprietorships, and any applicants with plans to hire 2 to 10 employees must show plans to satisfy at least one criteria from subsection (c) and at least one criteria from subsection (d).
    ii. All applicants that plan to hire more than 10 employees must show plans to satisfy at least 3 criteria from subsections (c) and at least three criteria from subsection (d).
(c) To the extent required by subsection (b) of this section, applicants must propose plans to recruit, hire, and implement a development ladder for minorities, women, or individuals who have historically been disproportionately impacted by cannabis prohibition using the following options:
    i. Inclusive hiring and contracting plans.
    ii. A plan for providing a livable wage.
    iii. Adopting and supporting incubator or accelerator programs that seek to assist businesses that meet the definition of a social equity applicant or are minority or women-owned, including but not limited to providing:
        1. grants or access to capital;
        2. workforce re-entry training or programming;
        3. cultivation, manufacturing, or retail space;
        4. management training or other forms of industry-specific technical training; or
        5. mentorship from experts;
    iv. A contribution or contributions to the Cannabis Business Development Fund established by 7 V.S.A. § 987.
(d) To the extent required by subsection (b) of this section, applicants must propose plans to incorporate principles of environmental resiliency or sustainability, including energy efficiency, using the following options:
    i. Sustainable agricultural practices.
    ii. Sourcing energy from renewables.
    iii. Exceeding minimum waste standards, as provided by Rule 2.2.8, or exceeding minimum efficiency standards as provided by Rule 2.5, if applicable.

iv. Contribute to anti-pollution efforts, which could include but is not limited to the use of carbon off-sets.

1.4.10 Statement of Truthfulness and Accuracy

All applicants shall attest to the truthfulness and accuracy of the information contained in their application.

1.5 License Application Requirements for Cultivators

The requirements in this section apply to applications for a cultivator license.

1.5.1 Location Information

In addition to the information required in subsection 1.4.5 of this rule, an applicant must provide:

(a) A diagram or a site plan of the physical site of operation that is clearly legible and includes:
   i. north arrow;
   ii. standard scale;
   iii. size of property in acres (for outdoor cultivator) or total square feet (for indoor cultivator);
   iv. total plant canopy dimensions;
   v. for outdoor cultivators, use of land and structures that share the property;
   vi. for indoor cultivators, a diagram of how non-cultivation parts of the facility will be utilized.
(b) A map showing the boundaries of the planned growing area, provided that this requirement applies only to outdoor cultivator Tiers 2-6.
(c) The location for outdoor cultivators must comply with Rule 2.4.4 regarding visibility from a public road.

1.5.2 Water and Wastewater Requirements

General water supply and municipal wastewater requirements:

(a) Cultivators on a municipal water supply must submit a letter from the water utility certifying the utility's capacity to provide a sufficient quantity of water to the applicant at the physical site of operation.
(b) Cultivators using municipal wastewater, or other offsite wastewater system, must submit a letter certifying the wastewater system's capacity to accept the quantity and anticipated strength of wastewater from the physical site of operation.

Tier 5 and 6 Cultivator applicants must:

(c) state the following if their water use and wastewater generation are covered by the Wastewater System and Potable Water Supply Rule, as promulgated by the Department of Environmental Conservation:
   i. where they are planning on withdrawing water;
   ii. by what means will they withdraw and, if necessary, store the water prior to use;

iii. when on-site water is also used for potable/sanitary purposes for workers;
iv. how many people may be on-site in a given day;

(d) specify the volume and strength of the wastewater that the facility anticipates generating, using design flows from the Wastewater System and Water Supply Rule where appropriate and specify how it will be treated and disposed;
(e) state whether the Cannabis Establishment needs to comply with the Indirect Discharge Rules and Underground Injection Control Rules as promulgated by the Department of Environmental Conservation; and
(f) describe the anticipated means of collecting, storing, treating, and discharging wastewater.

1.5.3 Indoor Cultivators

Indoor cultivation Cannabis Establishments must identify whether their water supply and wastewater systems must comply with any applicable portion of the Department of Environmental Conservation's Drinking Water and Groundwater Protection Division rules.

1.6 License Application Requirements for Manufacturers

The requirements in this section apply to applications for a manufacturing license.

Manufacturers must indicate whether they are planning to utilize solvent-based extraction.

1.7 License Application Requirements for Retailers

The requirements in this section apply to applications for a retail license.

Retailers must indicate whether any intended sale items will contain CBD, hemp, or a hemp-derived compound, or is a consumable item that is not intoxicating.

1.8 License Application Requirements for Testing Laboratories

The requirements in this section apply to applications for a testing laboratory license.

Applications for testing laboratories may be reviewed for qualification by the Board or a Board designee.

At its discretion, the Board may waive or reduce licensing requirements, including fees, for a laboratory that has a current certification under the Cannabis Quality Control Program established by the Vermont Agency of Agriculture, Food and Markets under 6 V.S.A. § 567.

A testing laboratory applicant must submit:

(a) current laboratory accreditation certificates, or proof of certification under the Cannabis Quality Control Program established by the Vermont Agency of Agriculture, Food and Markets under 6 V.S.A. § 567;

(b) laboratory quality assurance manual or procedures which document the lab quality control system, and an outline of the quality management system;
(c) the laboratory standard operating procedures for analysis of Cannabis and Cannabis Products;
(d) a master list of all analytical and non-analytical (i.e., safety and training) standard operating procedures indicating the latest revision and review dates and current effective dates;
(e) documentation of educational and technical credentials for all key technical and management personnel;
(f) current organization chart, including reporting relationships;
(g) example Certificates of Analysis (CoA) to be issued by the laboratory for each test area, containing all information required in a CoA;
(h) the latest proficiency results for Cannabis testing or similar matrix (i.e., food, solids,) for all test areas in which it states it is certified, if available;
(i) proof of analytical proficiency.

1.9 License Application Requirements for Integrated Licensees

The requirements in this section apply to applications for an integrated license.

An integrated license applicant must meet all requirements in sections 1.4-1.8 of this rule, and must also submit:

(a) A plan to provide reduced cost or free Cannabis to patients with documented, verified financial hardship who are utilizing the dispensary operation;
(b) a plan to ensure 25% of Cannabis flower sold is obtained from tier 1 cultivators,
(c) a list of products purchased by registered patients in the preceding 12 months;
(d) plan to ensure continuity of products for patients accessing the dispensary operation;
(e) plan to contribute $50,000 to the Cannabis business development fund by October 1, 2022; and
(f) attestation of good standing with respect to their medical Cannabis dispensary license in accordance with 7 V.S.A. § 903(a)(1). For the purposes of this subsection (f), good standing shall mean the dispensary is in compliance with Chapter 86 of Title 18 of the Vermont Statutes, and with all associated rules.

1.10 License Application Acceptance Periods

(a) The Board will accept license applications in accordance with legislatively mandated time periods.
(b) Other than legislatively mandated time periods, the Board may open or close acceptance periods for applications at its discretion, provided that the Board will give public notice no less than 30 days prior to opening and 30 days prior to closing an application acceptance period.
(c) The Board may set separate application acceptance periods for each of the license types and may set separate application acceptance periods for each tier within tiered license types.

(d) Other than legislatively mandated application acceptance periods, the Board may open application periods at their discretion, subject to the following limitations:
    i. the Board shall accept applications for license types, other than cultivation license types, for no less than 30 days each calendar year; and
    ii. the Board shall accept applications for Tiers 1 and 2 of both indoor and outdoor cultivation license types for no less than 30 days each calendar year. The 30-day window for this subdivision 1.10(d)(ii) must open no later than February 1 of each calendar year.
(e) Nothing in this section 1.10 shall be interpreted to impact the license renewal process governed by section 1.15 of this rule.

1.11 Criminal Records and License Qualification Determinations

1.11.1 Effect of Criminal Records on Application

Except as provided in 1.11.2, no criminal offense committed by an applicant, the principal of an applicant, or a person who owns or controls an applicant, will have a negative effect on their application or disqualify them from obtaining a license.

1.11.2 Presumptive Disqualification

Convictions for offenses in the following categories presumptively disqualify an applicant, the principal of an applicant, or a person who controls an applicant from gaining a license to operate a Cannabis Establishment, provided that a person may overcome the presumption as specified in section 1.11.3:

(a) A listed crime as defined in subsection 13 V.S.A. § 5301(7) or the equivalent in another jurisdiction;
(b) A conviction for an offense in 13 V.S.A. chapter 64 or the equivalent in another jurisdiction;
(c) a state or federal felony offense involving fraud, deceit, or embezzlement;
(d) convictions that demonstrate an ongoing involvement with organized criminal enterprises, including violent gangs and drug cartels;
(e) trafficking of a regulated substance other than Cannabis. For the purposes of this subsection (c), trafficking will mean a violation of 18 V.S.A. §§ 4231(c), 4233(c), 4233a(b), 4234a(c), or a non-violent drug distribution offense in another jurisdiction that carries a maximum penalty of 30 years of incarceration or greater;
(f) dispensing cannabis to a person under 21 years of age in violation of 18 V.S.A. § 4230f, or the equivalent offense in another jurisdiction;
(g) misdemeanor convictions that occurred within the 2 years preceding the application; except for non-violent offenses; or
(h) felony convictions that occurred within the 5 years preceding the application, except for non-violent offenses.

1.11.3 Overcoming Presumptive Disqualification

The Board may deem an individual qualified to obtain a license even if they were convicted of an offense enumerated in section 1.11.2. In making this decision, the Board shall consider the following factors:

(a) The nature and seriousness of the crime or offense;
(b) The circumstances under which the crime or offense occurred;
(c) The date of the crime or offense;
(d) The age of the person when the crime or offense was committed;
(e) Whether the individual committed subsequent offenses;
(f) Any social conditions that may have contributed to the commission of the crime or offense;
(g) The nature and responsibility of the position that the person with a conviction would hold, has held, or currently holds; and
(h) Any evidence of rehabilitation.

License applications will allow applicants to provide additional information related to these factors, if relevant.

1.12 Issuance of Licenses

(a) The Board shall issue licenses to applicants who meet all requirements for their licenses contained in this rule and all requirements for their licenses contained in Chapter 33 of Title 7 of the Vermont Statutes.
(b) Notwithstanding subsection (a) of this section 1.12, the Board retains the right to deny a license to an applicant that the Board finds would threaten public health or safety if the applicant were to obtain a license. Such a decision shall be supported by written findings.
(c) Applicants who falsely attest to the truthfulness and accuracy of the information in their application will be deemed unqualified for a license. If an applicant applies for a license again subsequent to such a denial, the Board may request additional information from the applicant, at the Board's discretion, to assess the truthfulness and accuracy of the subsequent application.
(d) A licensee, the principal of a licensee, or person who controls a licensee, whose license has been revoked pursuant to Board Rule 4, may not obtain a license until at least 1 year has passed since the revocation took effect.
(e) A grant or denial of a license under this section 1.12 shall constitute a final decision of the Board for the purposes of appeals pursuant to 7 V.S.A. § 847.

1.13 Prequalification Approval

1.13.1 Purpose of Prequalification Approval

The Board at its discretion may choose to issue prequalification approvals, in accordance with this section, for the purposes of smoothing the application process for applicants as well as assisting the Board in anticipating the structure of the market.

1.13.2 Limits of Prequalification Approval

A prequalification approval does not permit the recipient to operate a Cannabis Establishment. An applicant does not become a licensed Cannabis Establishment, and is not permitted to operate, until the Board issues the applicant a license subsequent to the submission of the applicant's complete and successful application in accordance with this rule.

1.13.3 Forms and Fees for Prequalification Approval

(a) Those applying for prequalification approval are required to submit an application in a format determined by the Board. The Board will make the application form readily accessible to the public.
(b) Applicants will be required to pay fees, or show they qualify for a fee waiver or reduction, in accordance with a fee schedule and waiver or reduction policy that the Board will be make readily accessible to the public. The fee waiver or reduction policy will include a schedule of waivers and reduction for social equity applicants.

1.13.4 Prequalification Approval Application Acceptance Periods

The Board may choose to accept prequalification approval applications at its discretion. It will provide public notice of its intention to accept prequalification approval applications no less than 30 days prior to opening the acceptance period. It will provide public notice of its intention to close a prequalification approval application acceptance period no less than 30 days prior to closure.

1.13.5 Prequalification Approval Application and Issuance

(a) prequalification approval applications shall consist of the materials required by sections 1.4.1 and 1.4.2 of this rule.
(b) The Board shall certify a prequalification approval for any prequalification approval application that meets the requirements of subsections 1.4.1 and 1.4.2 of this rule and is not in violation of 7 V.S.A. § 901(d)(3).

1.13.6 Converting a Prequalification Approval to a Full License Application

Prequalification approvals shall remain valid for 365 days from the date of issuance. They may be rescinded by the Board if the Board learns that information provided in the prequalification approval application was not truthful or accurate. Persons with a prequalification approval must do the following to convert their prequalification approval into a full license application:
(a) update all information submitted in accordance with section 1.13.5 of this rule, and
(b) provide all other applicant information required by this rule.

1.14 Priority of Board Considerations for License Applications

(a) The Board shall consider applications under a priority system that is laid out in a policy readily available to the public.
(b) The policy shall give top priority to social equity applicants when considering applications.

(c) The policy shall also utilize the factors listed in 7 V.S.A. § 903(a).

1.15 License Renewal Procedures

1.15.1 License Renewal Timeframes

(a) Licenses are valid for the time period provided in 7 V.S.A. § 901, except as provided in section 1.17 of this rule.
(b) The Board will send notice for license renewals no less than 120 days prior to the expiration of a license.
(c) Renewal applications may be submitted up to 90 days prior to their expiration.
(d) A licensee must apply for renewal no less than 30 days prior to the license's expiration date, provided that:
    i. if a licensee fails to meet this deadline, they may submit a renewal application accompanied by a written explanation for the untimely filing, and
    ii. the Board may accept such a renewal application and, if necessary, continue the licensee's existing license until such time as the renewal process is completed.
(e) If a licensee files a timely renewal application but does not receive a response from the Board prior to the expiration date for their license their license shall continue to be valid until such time as the Board provides a response, at which time their license will be renewed if the application is granted or terminated if it is not.
(f) A licensee who does not submit a license renewal application prior to the expiration of their license is no longer a licensee upon the date their license expires. Such a person may no longer operate the Cannabis Establishment.

1.15.2 License Renewal Form and Fees

(a) Licensees must apply for renewal in a format determined by the Board. The Board will make the application form readily accessible to the public.
(b) Applicants will be required to pay fees, or show they qualify for a fee waiver or reduction, in accordance with a fee schedule and waiver or reduction policy that the Board will be make readily accessible to the public. The fee waiver or reduction policy will include a schedule of waivers and reduction for social equity applicants.

1.15.3 License Renewal Information Requirements

Licensees must submit the following information with their renewal applications, if applicable:
(a) efficiency to the extent required by Board Rule 2.5.6;
(b) a description of changes or adjustments to an outdoor cultivation site, if any, providing the same type of location information as required by sections 1.4.5 and 1.5.1 of this rule;
(c) all other updates to the information submitted in a licensee's application or prior renewal application; and
(d) information regarding progress on the licensee's required goals as required by section 1.4.9 of this rule.

Nothing in this section should be interpreted to supersede or alter a licensee's continuing duty to disclose as provided by Board Rule 2.11.

1.15.4 Conditions For Renewal

The Board shall renew the license of a licensee that meets the following requirements:

(a) Remains in compliance with this rule, with all other relevant Board Rules, and with the provisions of Chapter 33 of Title 7 of the Vermont Statutes, provided that Notices of Violation will be dealt with in accordance with subsection (d) of this section 1.15.4;
(b) has paid any fee required by 1.15.2;
(c) has provided the information required by 1.15.3; and
(d) is in good standing with the Board. For the purposes of this section, good standing is defined as having no unpaid or otherwise unsatisfied final Notice of Violation against the licensee issued pursuant to Board Rule 4, provided that:
    1. a Notice of Violation will not be considered final for the purposes of this section until all appeals have been exhausted or waived, and
    2. A licensee who is complying with a Board-approved plan to remediate harm stemming from a violation will be considered in good standing.

A licensee whose license has been suspended or revoked pursuant to Board Rule 4 will not be considered a licensee for the purposes of this section. License reinstatement in those circumstances, if available, is governed by Board Rule 4.

1.16 Cannabis Establishment Identification Cards

1.16.1 Identification Cards for Owners and Principals

(a) For the purposes of this section, an "owner" means a natural person who controls, or shares control of, a Cannabis Establishment.
(b) All owners and principals will be issued Cannabis Establishment identification cards upon the issuance of a license to operate a Cannabis Establishment.

1.16.2 Forms and Fees for Cannabis Establishment Identification Cards

(a) Those applying for identification cards are required to submit an application in a format determined by the Board. The Board will make the application form readily accessible to the public.
(b) Applicants will be required to pay fees, or show they qualify for a fee waiver or reduction, in accordance with a fee schedule and waiver or reduction policy that the Board will be make readily accessible to the public. The fee waiver or reduction policy will include a schedule of waivers and reduction for social equity applicants.

1.16.3 Application Requirements for Cannabis Establishment Identification Cards

To apply for a Cannabis Establishment identification card the following information must be submitted:

(a) the individual's full legal name and any aliases,
(b) the individual's address,
(c) the individual's date of birth,

(d) a photocopy of the individual's driver's license or other government-issued identification card,
(e) a full set of fingerprints in a form and manner as determined by the Board,
(f) any other authorization or disclosure deemed necessary by the Board for the purpose of conducting a background check,
(g) a listing of criminal convictions, including any pending offenses,
(h) information listed in section 1.11.3 of this rule, if applicable,
(i) if the applicant holds or has held a similar card in another jurisdiction, the name of the issuing authority, and the approximate dates held, and
(j) if a similar card is or has been held in another jurisdiction, whether that card was revoked and the reason for revocation.

1.16.4 Qualification for Cannabis Establishment Identification Cards

Individuals who submit a complete application for an identification card will be issued a card after a background check is complete, except that:

(a) No individual under 21 years of age will be issued an identification card; and
(b) the Board may deny an individual an identification card if an applicant has a record of any of the following:
    i. a presumptively disqualifying criminal offense as defined in 1.11.2, provided that the Board will also consider mitigating factors as defined in 1.11.3;
    ii. diversion of Cannabis from a past Cannabis Establishment employer in the regulated market in Vermont or another state;
    iii. failure to disclose required information on their application;
    iv. revocation of a similar identification card from Vermont or another jurisdiction in the last 2 years, or more than twice;
    v. fraudulent use of the identification card in Vermont or other jurisdictions including, but not limited to, tampering, falsifying, altering, modifying, duplicating, or allowing another person to use, tamper, falsify, alter, modify, or duplicate the card;
    vi. failure to notify the Board of a lost, stolen, or destroyed card; and
    vii. failure to notify the Board of convictions pending at the time of application or convictions that occur after the card is issued.
(c) The Board will retain discretion to issue identification cards to individuals who have a record of behavior as outlined in subsection (b) if they demonstrate evidence of rehabilitation or show mitigating social factors surrounding the behavior. Identification card applications will allow for individuals to provide such evidence or explanation, if relevant.

1.16.5 Temporary Work Permit

(a) Upon receipt of an application for an identification card and prior to the completion of a background check the Board will issue a temporary work permit allowing the individual to work at a Cannabis Establishment if the applicant is over 21 years old and discloses no record of behavior related to 1.16.4(b) of this rule, except that the Board retains

discretion to deny a temporary license to any applicant if the Board has knowledge of such a record.

(b) The Board may withdraw a temporary permit if they gain knowledge of behavior related to 1.16.4(b) after issuing a permit.

(c) If an application for an identification card discloses behavior related to 1.16.4(b) of this rule, the Board retains discretion to issue a temporary work permit if the Board determines it can do so consistent with public health and safety.

(d) A temporary permit will expire after 4 months, or upon the issuance or denial of an identification card, whichever comes first. If a temporary permit expires before the Board decides whether to issue or deny an identification card, the Board shall issue a new temporary permit card.

1.16.6 Ongoing Duty to Disclose

The holder of an identification card has an ongoing duty to fully and transparently disclose any information relevant to the criteria in section 1.16.4 of this rule.

1.16.7 Identification Card Renewal

(a) All holders of identification cards will undergo a background check by the Board prior to renewal.

(b) Requests to renew identification cards will be considered pursuant to the standard in section 1.16.4 of this rule.

(c) Identification cards will expire in accordance with the timeline provided by 7 V.S.A. § 884. Identification cards will have an expiration date printed on them.

(d) Requests to renew identification cards will adhere to the following timeline:

i. A card holder must apply for renewal no less than 30 days prior to the card's expiration date, provided that:

1. if a card holder fails to meet this deadline, they may submit a renewal application accompanied by a written explanation for the untimely filing, and
2. the Board may accept such a renewal application and, if necessary, continue the card holder's existing card until such time as the renewal process is completed.

ii. If a card holder files a timely renewal application but does not receive a response from the Board prior to the expiration date for their card the card shall continue to be valid until such time as the Board provides a response, at which time their card will be renewed if the application is granted or terminated if it is not.

iii. A card holder who does not submit a license renewal application prior to the expiration of their card is no longer a card holder upon the date their card expires. Such a person may no longer work at a Cannabis Establishment.

(e) Upon the final expiration of an identification card the holder of the card must return it to the Board or must destroy it.

1.17 Change of License Control or Change of License Location Requires a License Renewal Application

(a) Either of the following changes to a license requires a licensee to submit a license renewal application in accordance with the terms of this section and section 1.15 of this rule:
   i. When an interest holder who has control of a licensee will be changed, including by adding a person who will be an interest holder and will have control, removing a person who is an interest holder and has control, or transferring control from one person who is an interest holder to another person who is an interest holder. This provision does not apply in the event of the death of an interest holder who has control of a licensee. In such instances the licensee shall notify the Board of the death at the time the license is to be renewed pursuant to 7 V.S.A. § 901 section 1.15.1 of this rule.
   ii. When a licensee wishes to change the physical site of operations for their license.

(b) A licensee may not consummate a change of control before the Board approves their license renewal application.

(c) A licensee may not move to a new physical site of operations before the Board approves their license renewal application.

(d) A license renewal application submitted pursuant to this section 1.17 may be submitted at any time, including during the time a licensee's regular renewal application would be submitted pursuant to section 1.15.1 of this rule. For renewal application submitted during the regular renewal timeframe, licensees may submit one renewal application that satisfies section 1.15 and this section 1.17.

(e) The renewal must have all application information updated to reflect the proposed changes of control or change of location. These updates must include, but are not limited to, updates of the information required in sections 1.4.1, 1.4.2, and 1.4.6 of this rule.

(f) A licensee who fails to renew their license prior to consummating a change of control or moving to a new location will be considered a licensee who failed to renew their license before it expired, as provided in section 1.15.1(f) of this rule.

(g) The fees required by section 1.15.2 of this rule will apply to renewal applications submitted pursuant to this section, provided that the Board will retain discretion to waive or reduce fees for such renewals.

(h) A change of control that results in a social equity licensee no longer meeting the qualifications to be a social equity applicant could trigger a requirement that the new licensee repay fee waivers from prior years, in accordance with the fee waiver or reduction policy that the Board will make readily accessible to the public.

(i) Upon Board approval of a license renewal application submitted pursuant to this section the time period for which a license remains valid, as provided by 7 V.S.A. § 901, will start again.

(j) If the Board does not approve a license renewal application submitted pursuant to this section, the licensee may not proceed with the proposed change in control or the proposed move. The licensee's existing license will remain in effect until such time as renewal would otherwise have been required by 7 V.S.A. § 901.

(k) A licensee who has been granted a license to change location pursuant to this section shall not be considered to be in violation of the license location restrictions of 7 V.S.A. § 901 during the move from one location to another, provided that:
    i. the move may not last longer than 60 days from the grant of the new license, and
    ii. the Board retains discretion to find the licensee in violation of Board rules if, in the Board's judgment, the licensee is utilizing this provision to effectively subvert the location limitations of 7 V.S.A. § 901 by operating their Cannabis Establishment out of both locations.

1.18 Waiver Provisions for Tier 1 Cultivators

Tier 1 indoor cultivators, tier 1 outdoor cultivators, and tier 1 mixed cultivators are not required to comply with the requirements of the following subsections of this rule:

(a) 1.4.2(g);
(b) 1.4.2(h);
(c) 1.4.4(a);
(d) 1.4.4(b);
(e) 1.4.4(c);
(f) 1.4.4(h);
(g) 1.4.4(i);
(h) 1.4.4(j);
(i) 1.4.4(k);
(j) 1.4.5(b);
(k) 1.5.2(a), if the cultivation establishment will be a home occupancy business; and
(l) 1.5.2(b), if the cultivation establishment will be a home occupancy business.

1.19 Applicant's Ongoing Duty to Disclose

An applicant has an ongoing duty to fully and transparently update their application while it is pending if there are changes to any information submitted in their application.

1.20 Confidentiality

Application materials will be kept confidential by the Board to the extent required by 7 V.S.A. § 901(h).

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Kristin L. Clouser, Secretary

INTERAGENCY COMMITTEE ON ADMINISTRATIVE RULES (ICAR) MINUTES

Meeting Date/Location: December 15, 2021, Virtually via Microsoft Teams with Physical Location available in the Pavilion Building, 109 State Street, Montpelier, VT 05609
Members Present: Chair Kristin Clouser, Dirk Anderson, Jennifer Mojo, John Kessler, Diane Sherman, Clare O'Shaughnessy and Michael Obuchowski
Members Absent: Diane Bothfeld
Minutes By: Melissa Mazza-Paquette

- 1:04 p.m. meeting called to order, welcome and introductions.
- Review and approval of minutes from the November 15, 2021 meeting.
- Note: The following emergency rules were supported by ICAR Chair Clouser:
  - Emergency Administrative Rules for Notaries Public and Remote Notarization', Secretary of State, Office of Professional Regulation, on 12/7/21
    - These Emergency Rules define the "personal appearance" requirement for remote notarial acts conducted through a secure audio-visual communication link.
  - At Home COVID-19 Antigen Test Coverage, Department of Financial Regulation, on 12/8/21
    - The emergency rule requires health insurers to waive or limit certain cost-sharing requirements directly related to COVID-19 antigen tests (commonly referred to as "rapid" tests), including over-the counter tests for use at home.
- No additions/deletions to agenda. Agenda approved as drafted.
- No public comments made.
- Presentation of Proposed Rules on pages 2-7 to follow.
  1. Reportable and Communicable Diseases Rule, Agency of Human Services, Department of Health, page 2
  2. Licensing Regulations for Afterschool Child Care Programs, Agency of Human Services, Department for Children and Families, page 3
  3. Child Care Licensing Regulations: Center Based Child Care and Preschool Programs, Agency of Human Services, Department for Children and Families, page 4
  4. Licensing Regulations for Registered and Licensed Family Child Care Homes, Agency of Human Services, Department for Children and Families, page 5
  5. Rule 1: Licensing of Cannabis Establishments, Cannabis Control Board, page 6
  6. Rule 2: Regulation of Cannabis Establishments, Cannabis Control Board, page 7
- Chair Clouser met briefly with members from LCAR to discuss ways to improve processes. A future meeting of the two bodies will be held to expand the discussion.
- Committee discussion of administrative rules in other states and ways to enhance our system to be more responsive to the public and governmental agencies. ICAR will meet with LCAR and discuss next steps and potential action items.
- Next scheduled meeting is Wednesday, January 12, 2022, 1:00 PM
- 2:49 p.m. meeting adjourned.

Proposed Rule: Reportable and Communicable Diseases Rule, Agency of Human Services, Department of Health

Presented By: Natalie Weill

Motion made to accept the rule by John Kessler, seconded by Jen Mojo, and passed unanimously with the following recommendations:

1. Title Page: Include 'Printed Name and Title'.
2. Proposed Filing Coversheet, #8: Be consistent with past or present tense. Describe the demographic information required. For clarity, consider adding 'in which' prior to '…VDH is to receive' in the following sentence "It defines the timeframe VDH is to receive reportable laboratory findings.".
3. Proposed Filing Coversheet, #12: Clarify language regarding the reporting requirements and include any potential costs.
4. Economic Impact Analysis: Include any costs associated with the requirement or state none if applicable.
5. Economic Impact Analysis, #3: Provide details on the changes, requirements, economic impact and benefits.
6. Economic Impact Analysis, #5: Correct spelling of 'existance'.
7. Economic Impact Analysis, #8: Insert any favorable aspect, such as cost reduction.
8. Economic Impact Analysis, #9: Include source of information pertaining to the benefit of mandatory reporting.
9. Public Input Maximization Plan, #4: Include more details pertaining to the stakeholders and list those who were engaged in the process.

Proposed Rule: Licensing Regulations for Afterschool Child Care Programs, Agency of Human Services, Department for Children and Families

Presented By: Heidi Moreau

Motion made to accept the rule by John Kessler, seconded by Diane Sherman, and passed unanimously with the following recommendations:

1. Proposed Filing Coversheet, #5: Clarify the language in the second sentence. The ‘d’ in ‘department’ should be capitalized for consistency.
2. Proposed Filing Coversheet, #8: Include the purpose, rationale or justification for exempting the rules.
3. Proposed Filing Coversheet, #9: Clarify and include the reasoning and goal.
4. Proposed Filing Coversheet, #12: Clarify who the minimal financial impact pertains to.
5. Proposed Filing Coversheet, #13: Hearing are always encouraged. If the choice is to not hold one, include further explanation on the outreach done.
6. Economic Impact Analysis, #7: Include language that the agency determined such a valuation isn't appropriate.
7. Economic Impact Analysis, #8: Include language to the first sentence such as ‘in a nondiscriminatory fashion’ if applicable.

Proposed Rule: Child Care Licensing Regulations: Center Based Child Care and Preschool Programs, Agency of Human Services, Department for Children and Families

Presented By: Heidi Moreau

Motion made to accept the rule by Dirk Anderson, seconded by Jen Mojo, and passed unanimously with the following recommendations:

1. Proposed Filing Coversheet, #5: Clarify the language in the second sentence. The ‘d’ in ‘department’ should be capitalized for consistency.
2. Proposed Filing Coversheet, #8: Include the reasoning/objective for exempting the rules. Add a space after the comma in ‘,and’ in the last line.
3. Proposed Filing Coversheet, #9: Clarify and include the reasoning and goal.
4. Proposed Filing Coversheet, #10: Include reference to center-based childcare programs if appropriate.
5. Proposed Filing Coversheet, #12: Clarify who the minimal financial impact pertains to.
6. Proposed Filing Coversheet, #13: Hearing are always encouraged. If the choice is to not hold one, include further explanation on the outreach done.
7. Economic Impact Analysis, #7: Include language that the agency determined such a valuation isn't appropriate.
8. Economic Impact Analysis, #8: Include language to the first sentence such as ‘in a nondiscriminatory fashion’ if applicable.

Proposed Rule: Licensing Regulations for Registered and Licensed Family Child Care Homes, Agency of Human Services, Department for Children and Families

Presented By: Heidi Moreau

Motion made to accept the rule by Diane Sherman, seconded by John Kessler, and passed unanimously with the following recommendations:

1. Proposed Filing Coversheet, #8: Include the reasoning/objective for exempting the rules. Add a space between ‘,and’ in the last line.
2. Proposed Filing Coversheet, #9: Clarify and include the reasoning and goal.
3. Proposed Filing Coversheet, #10: Include reference to center-based childcare programs if appropriate.
4. Proposed Filing Coversheet, #12: Clarify who the minimal financial impact pertains to.
5. Proposed Filing Coversheet, #13: Hearing are always encouraged. If the choice is to not hold one, include further explanation on the outreach done.
6. Economic Impact Analysis, #7: Include language that the agency determined such a valuation isn't appropriate.
7. Economic Impact Analysis, #8: Include language to the first sentence such as ‘in a nondiscriminatory fashion’ if applicable.

Proposed Rule: Rule 1: Licensing of Cannabis Establishments, Cannabis Control Board

Presented By: David Scherr

Motion made to accept the rule by John Kessler, seconded by Mike Obuchowski, and passed unanimously with the following recommendations:

1. Proposed Filing Coversheet, #8: Presenter noted the concise summary will likely change to be more precise and including applicability from the proposed rule section 1.1.0.4, page 25, which ICAR supports.
2. Economic Impact Analysis, #3: Include the description of the estimated costs and benefits. As in the coversheet, identify the huge scope of parties that could be impacted from these brand-new rules.
3. Economic Impact Analysis, #6: Focus on the small businesses and then broaden the kind of overall potential economic impact, which could be added to the coversheet.
4. Environmental Impact Analysis: Preface to include the economic, or potential, impact of the entire market as it isn't necessarily related simply to the licensing requirement.
5. Public Input, #3: Include estimated number of future hearing is known.
6. Proposed Rule, 1.17, Section 17: If applicable, include reference to Rule 2.

Proposed Rule: Rule 2: Regulation of Cannabis Establishments, Cannabis Control Board

Presented By: David Scherr

Motion made to accept the rule by Dirk Anderson, seconded by John Kessler, and passed unanimously with the following recommendations:

1. Proposed Filing Coversheet, #8: Include more information.
2. Economic Impact Analysis, #3: Include the description of the estimated costs and benefits. As in the coversheet, identify the huge scope of parties that could be impacted from these brand-new rules.
3. Economic Impact Analysis, #6: Focus on the small businesses and then broaden the kind of overall potential economic impact, which could be added to the coversheet.
4. Environmental Impact Analysis: Preface to include the economic, or potential, impact of the entire market as it isn't necessarily related simply to the licensing requirement.
5. Public Input, #3: Include estimated number of future hearing is known.
6. Include Incorporation by Reference if applicable.

VERMONT
CANNABIS CONTROL BOARD
89 Main Street Montpelier, VT 05602 | ccb.vermont.gov

Date: February 3, 2022

To: Legislative Committee on Administrative Rules

From: Cannabis Control Board, drafted by David Scherr, General Counsel

Re: Board Response to Public Comments on Cannabis Control Board Proposed Rule 1

The Cannabis Control Board's rulemaking process has been marked by extraordinary public participation and cooperation. As detailed more fully in the "Strategy for Maximizing Public Input" section of this rule filing, the initial filing of this rule was preceded by extensive public comment and input.

The public notice and comment period has been no different, with the Board providing the public numerous opportunities to weigh in on the proposed rules. This included not only the official public comment hearing but also public comment portions of otherwise scheduled Board meetings, as well as many comments submitted through the public portal on the Board's website.

The Board received more than 80 substantively distinct comments about proposed Rule 1 and accepted, in whole or in part, recommendations contained in more than half of them. The proposed rule has been edited accordingly.

This memo provides the Board's response to each substantively distinct comment. The Board received numerous duplicative comments, which have not been repeated among the attached explanations. The comments as described in this memo are sometimes a summary compilation of the comments on the subject in question.

Verbal comments from public meetings and public comment sessions, and the Board's responses, have been included.

Copies of all written comments submitted to the Board have been compiled into a single section at the back. The Board's rulemaking schedule moved the Board's proposed Rules 1 and 2 through the process in tandem. As a result, many commenters had input about both Rules 1 and 2 in the same document or

submission, so the written comment compilation contains comments about both proposed rules.

Below, each distinct comment is noted with bullet point, and the Board's response is noted below each comment or group of similar comments.

General Comments on Proposed Rule 1:

- For ease of administration and the regulated community, it would be helpful to include all terms defined in statute in the rule. And if a statute guides the regulated community in some way (advertising, packaging, etc) it would be helpful to have directly included in the rule.

Board response: Although this rule strives for clarity, including statutory citations by reference instead of copying them into the rule will reduce the likelihood that potential legislative changes to cannabis-related statutes will put the rules in conflict with statute. Such a result would make the rules inaccurate and hard to follow, as a reader would have to parse where a statute may have been amended.

- Regulations that are outside the jurisdiction of the CCB may not be suitable for inclusion in the Rule, when the CCB does not have the ability to enforce that other jurisdiction's law, statute or rule. This could change if the CCB uses compliance with other laws as a basis for revoking a license or is a barrier to obtaining a license, but this should be outlined explicitly.

Board response: The Board has no authority to enforce laws or regulations outside of its jurisdiction. It has included citations to some of these laws and regulations as a reminder to cannabis business applicants and licensees that they will have to follow all applicable laws, not just those enforced by the Board. The Board has explicitly noted that, in some cases, failure to follow applicable laws could result in a cannabis business applicant or licensee falling afoul of Board rules as well.

- Reporting to the Board, or requiring giving information to the Board, should generally only be required when it may trigger some action by the Board. Otherwise, reporting is burdensome both for Board and licensee without serving a purpose.

Board response: After considering reporting requirements the Board chooses to eliminate the following from its initial proposed rule:

Rule 1.4.4: eliminate (b)-(d)

Rule 1.6: manufacturers will indicate production methods—commercial kitchen or solvent based extraction or both.
Rule 1.7: delete (a), leave (b).

- Unless you're coming from the illicit market, having already paid for your grow space and your equipment without the additional fees and expenses associated with the legal market, starting a legal indoor cannabis business as a tier 1 cultivator is not a profit-making enterprise. I suggest including tier 2 cultivators in the licensing and regulatory exemptions, to make a fair and equitable market place for all small cultivators, not just the legacy growers who already have a significant head start in their start up costs, customer base, genetics, etc.

Board response: The Board will provide exemptions for tier 1 cultivators (small cultivators) but will not expand them to other tiers at this time.

- I envision the following business for cannabis: growing a small number of plants (less than 50), processing on-site (extracting into oil, making into edibles) and selling direct to consumer (through our existing network of contacts in the state). However under the proposed rule I would have to apply for three licenses, cultivator, manufacturer and retailer. I would hope that the board would provide an efficient and easy method for someone like me to apply, and not require performing the same tasks three times.

Board response: Through its operational processes the Board will work to ensure the application process can accommodate this type of applicant without placing an undue burden on their application process.

Rule 1 Comments by Section:

1.1.3:

- Define "employee": relevant to 1.4.9 as well.

Board response: Recommendation adopted. The Board will adapt the definition from labor law.

1.1.3(b), (f):

- These indoor/outdoor cultivation definitions leave some confusion as to where hoop houses would fit. The Board could delineate the difference between indoor and outdoor cultivation by clarifying that outdoor cultivators may use an enclosing structure like a hoop house, which does not otherwise constitute a "greenhouse" under Rule 2, so long as they do not use artificial lighting.

- As noted below in 1.3.1, this may be a place to accommodate mixed-light growing, if the Board chooses to do it.
- The definitions of "indoor" and "outdoor" cannabis do not seem to include or contemplate greenhouse buildings that do not use artificial light. Regulations should contemplate and allow the use of enclosed structures that do not use artificial light.

Board response: The Board agrees that the indoor/outdoor delineation should be clarified, and will do so by drawing a clear line between the use of artificial light and not using artificial light. The Board will not adopt a mixed-light growing option at this time.

1.1.3(j), (k), and (l):

Social equity criteria. Two issues: first, the 51% ownership rule. And second, the list of groups qualifying.

- 51% ownership rule issue:

By virtue of the reference to the federal Disadvantaged Business Enterprises (DBE's) definition, Rule 1 requires not only that an entity be at least 51% owned by socially disadvantaged individuals (SDI's), but that SDI's own at least 51% of each class of interests in the DBE. This would create an unnecessary hurdle to efficient capital raising by SDI's, as they would not be able to utilize common private equity investment structures which give investors "preferred" shares (which serve to give investors typical rights like liquidation preferences, co- sale rights, anti-dilution rights, and the like), while founders retain "common" shares. Instead, SDI's and their funders will be forced to structure their investment documents in less typical ways, which will only serve to increase their lawyers' fees.
Recommendation: Carve out the requirements of subparts (1), (2), and (3) of 49 C.F.R. 26.69(b) from §1.1.3(k), while retaining the majority-interest requirement of 49 C.F.R. 26.69(b) itself, as well as the investor control limitations of 49 C.F.R. 26.71, including subpart (c) thereof.

Board Response: Recommendation accepted in order to ensure adequate funding for social equity applicants.

- Qualifying groups:

Under the current definition it would include: women, Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Subcontinent Asian Americans, or other minorities found to be disadvantaged by the SBA. The Board may want to consider this.

- Can you please define what constitutes a "community" in the social equity definitions?

- It is my Understanding that the advisory board recommended that the Control Board remove Women from the social equity guidelines in Vermont. Federally women are included. There is language throughout the Regulations and Licensing that states women are disproportionately affected. Female CEOs in the Cannabis industry are declining, not increasing, as a business grows, they are increasingly taken over by large corporate predominantly male boards. Female historically work harder to be heard and respected and taken seriously in this industry, and in the business world in general, until these numbers change, I believe female should be part of the social equity conversation in Vermont as it is Federally.

Board Response: to bring the draft in line with the initial recommendation from the Board's social equity advisory subcommittee, this section of the rule will amend the list of qualifying groups to Black American and Hispanic American. The other ways of qualifying for a social equity applicant will not change. Other categories of applicants, including women, will have the option for assistance through other programming.

- In subsection 1.3.1 (j): replace "of" with "or" in second line.

Board response: Recommendation accepted.

- In subsection 1.3.1 (i): consider adding state residency requirement.

Board response: this is already in the rule.

1.3:

- Provide clarity around how a licensee can move between tiers. Can they do it at renewal? Could they do it in the middle of the licensing year?
- Change of tier should only be allowed at renewal period. Nobody gets 30 ish percent into a growing season and says, oh I need 250% more high quality product, ie. 1000 sqft to 2500 sqft

Board response: licensees can only change tiers upon renewal.

1.3.1:

- Several comments on both sides of the following debate: either make plant count equivalents for all outdoor tiers, or eliminate any reference to plant counts anywhere.

- Add mixed light provision for outdoor growers.

Board response: Mixed light will not be added at this time but could be considered in future years.

Board response: to allow for regulatory certainty and incentivize outdoor growers there will be plant count equivalencies for outdoor cultivation tiers.

- Clarify whether canopy outdoors needs to be contiguous--Board could address commenters concerns regarding SPAN numbers.

Board response: Cultivators can have grows on abutting SPANS.

- Drafting point: ensure that terminology regarding the "mixed" tier is consistent throughout.

Board response: Recommendation accepted.

- We are writing to advocate for multiple mixed tier licensing options. We encourage prioritizing this because the cultivation licenses will be the first ones rolled out; therefore, the foundation set now for cultivation licenses will impact other licenses down the supply chain. Old Growth Organix recommends the following mixed tier structures: (Ultimately, we recommend moving towards the scale of approximately 1:2:4 (indoor:mixed-light: outdoor); however, for now, we are recommending the following tiers given the complexity of implementing the 1:2:4 method at this moment.)
    - Tier 1. 1000 sq ft indoor; 100 plants outdoor
    - 2. 2000 sq ft indoor; 200 plants outdoor
    - 3. 3000 sq ft indoor; 300 plant outdoor

  We urge you not to implement a mixed tier structure that increases the size of one category and not the other. We believe the last recommendation that we heard was to add a second tier that would keep the indoor size at 1000 sq ft while increasing the outdoor plant count to around 100. The problem with increasing capacity for one grow method and not the other is that it does not account for market growth. We are requesting a mixed tier structure that would allow for expansion and product variation for farmers not currently capable of producing enough product to qualify for a top tier in either category.

- Proposed alternative tiering plan:

Differentiate caps on production and scales of license for indoor, mixedlight, and outdoor at a scale of approximately 1:2:4 (indoor: mixed-light: outdoor);

- i. Outdoor and indoor production differ substantially in production ability (seasonal as opposed to year-round production), in vulnerability to crop loss, and in impact with respect to water, electrical, facilities, visual and more;
- ii. Mixed light shall remain in the scope of artificial lighting. The use of "light deprivation" shall not be considered mixed light;
- iii. Entities can purchase one of each type of license:
    E.g. A business can purchase a cultivation license for indoor, outdoor, and / or mixed light cultivation;
- iv. It is notable that this ratio takes into account the amount of space and how it can be used over the course of a year in terms of accounting for equity of available space - but it does not account for disparities in crop loss which disproportionately affect outdoor growers based on pest, disease, weather, etc.. We have spoken with outdoor growers who have suggested an even greater allocation of space for outdoor production compared with indoor production to account for these vulnerabilities;

- Implement a tiered permit system allowing at maximum;
    i. 1 acre (app. 43,500 sqft.) for outdoors;
    ii. 22,000 sqft. for mixed-light;
    iii. 10,000 sqft. for indoors;

And at the smallest tier, the "Craft Tier":
    i. 4,000 sqft. for outdoors;
    ii. 2,000 sqft. for mixed-light;
    iii. 1,000 sqft. for indoors;

Develop Non-Craft Cultivation Tier;
i. Outdoor Cultivation Type 1, 10,000 sqft. – $2,500;
ii. Outdoor Cultivation Type 2, 20,000 sqft. – $5,000;
iii. Outdoor Cultivation Type 3, 40,000 sqft. – $15,000;
iv. Mixed-Light Cultivation Type 1, 5,000 sqft. – $2,500;
v. Mixed-Light Cultivation Type 2, 10,000 sqft. – $5,000;
vi. Mixed-Light Cultivation Type 3, 20,000 sqft. – $15,000;
vii. Indoor Cultivation Type 1, 2,500 sqft. – $2,500;
viii. Indoor Cultivation Type 2, 5,000 sqft. – $5,000;
ix. Indoor Cultivation Type 3, 10,000 sqft. – $15,000;

Offering commentary and info in response to the questions raised at today's 1/24 Board meeting around equity, oversupply, non-contiguous areas, Act 250 constraints, and the overall outdoor tier structure.

Board response: in addition to the decisions already noted above, the Board does decide to adopt mixed cultivation tiers.

Based on the equivalency in yield of 1,000 square feet of indoor cultivation to 125 plants"or 3,125 square feet"of outdoor cultivation (per my earlier comments), I analyzed some numbers and offer the following input:

1. Indoor-outdoor equivalency is critical for equity at all tier levels, not just Tier 1; without it, the opportunity to make money will be limited mostly to those who already have a lot. An indoor 5,000-sqft grow can return over 300% ROI, but a 5,000-sqft outdoor returns 39% at best, which is not a viable proposition for small farmers given the inherent risks of farming. With equivalency applied, the return on outdoor increases to 210%, giving less-capitalized entities a meaningful opportunity to build a viable enterprise.

2. The current supply model overestimates outdoor yield/sqft by 300%; equivalency will equal the program's supply assumptions, not exceed them. The supply model behind the 10/15/21 report estimates outdoor yield at 36g/sqft when experience shows it to be no more than 12g/sqft. Equivalency will not create an oversupply; on the contrary, the program's supply assumptions would be drastically incorrect without it.

3. Measure square feet of outdoor canopy in non-contiguous rows to accommodate microsite characteristics and encourage sustainable farming techniques. Otherwise growers will be incentivized to crowd their plants together, reducing yields and intensifying their use of water, fertilizers and pesticides.

4. Do not limit outdoor canopy size based on potential interactions with Act 250, which would unnecessarily constrain the benefits of outdoor production in pre-emption of another Agency's authorities and discretion. Growers should be free to tailor their plans according to local implementation of Act 250 and their readiness to engage on such matters, particularly given the likelihood the regulations or the Act itself will change in the near future.

CONCLUSION: Keep it simple¦ 3 square feet outdoors = 1 square foot indoors.

Plant counts are the ideal approach for all outdoor tiers, and it's critically important for the Tier 1 level given the 1000-sqft definition of "small cultivator." But for all the other tiers it's probably simpler to go with the square-foot equivalent instead, and nothing in statute prevents the Board from establishing the higher outdoor tiers based on this 3:1 ratio (not even Act 250).

Board response: the Board does decide to adopt mixed cultivation tiers and has taken into consideration the equivalencies discussed in this comment.

1.3.2:

- Clarify the definition of retail nursery cannabis establishments. Also potentially adjust Rule 2.8 requirements of the license as necessary: could include buffer zone distinction from regular retail, age verification requirements only at entry or point of sale.

Board response: Eliminate license type to avoid confusion, await legislative fix to allow cultivators to sell genetics.

1.3.3:

- Tier 3 manufacturing needs to be better defined

Board response: tier 3 manufacturers will be: Home occupancy businesses with one employee or less, under 10K in sales annually, and otherwise able to do what a tier 2 manufacturing license can do.

1.4.1:

- Include email contact as requirement. Ask for business address, if available (may not be for those applying for provisional licenses—business addresses will be captured in 1.4.6).
-

Board response: Recommendation accepted.

- From the Tax Department: there is a requirement for applicants to provide the CCB with an Federal ID number, but no SSN is needed for the individual principals and those who control an applicant. The Tax Department would suggest that you collect SSNs. Otherwise, the system of individuals who operate on behalf of the licensee who is a non-person entity is very similar to our system – we call them "persons required to collect tax" which are those individuals who control the corporate taxpayers. 32 V.S.A. § 9703. We ask for their SSNs up front when they apply for a sales tax license.

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Board response: Recommendation accepted.

1.4.1 and 1.4.3:

- In order to ensure that applicants cannot use clever corporate structuring to skirt the "one license rule" established by 7 V.S.A. §901(d)(3), it is critical that the Board require applicants to disclose all persons having both direct and indirect control of an establishment. §1.4.1 requires disclosure of all *principals* and *persons having control* of an establishment, but may not reach deep enough down to capture all indirectly controlling persons.

Recommendations:

1. Require disclosure of all principals of any control persons in addition to the listing of principals of the establishment itself;
2. Specify that the list of control persons must include both direct and indirect control, regardless of the number of intermediating entities which may be involved, such that for each directly or indirectly controlling entity, the identity of at least one natural person is ultimately disclosed.

Board response: Recommendation accepted.

1.4.2(e):

- Fingerprints won't go "to the Board." They'll be processed in different government agencies.

Board response: Recommendation accepted.

1.4.2(g):

- This provision requires an applicant to describe criminal actions "against an applicant, principal, or person". This appears to be unintentionally overbroad, as the reference to "person" is not qualified by any proximity to the applicant.

Recommendation: Revise so that the disclosure is required with respect to any person directly or indirectly controlling the licensee.

Board response: Recommendation accepted.

1.4.2(h):

- Same drafting error with respect to "person" as noted for 1.4.2(g).

Board response: Recommendation accepted.

- §1.4.2 requires the disclosure and a description of any civil action "to which the applicant, principal or person" was a party. This requirement

may exceed your rulemaking authority, as 7 V.S.A. Chapter 33 does not direct the Board to review civil records (as opposed to criminal and administrative records), and is not tailored to achieve the statutory goal of ensuring that applicants do not presently pose a threat to the proper function of the regulated market.

Recommendation: Either eliminate this requirement (preferred), or narrow it substantially so that it only requires disclosure of *recent* civil actions (within no more than the past 5 years) in which the applicant, or its principals or controlling persons, was accused of conduct that would reasonably demonstrate that the relevant person presently poses a threat to the proper function of the regulated market.

Board response: the inquiry will be narrowed to civil actions commenced or settled within the last 10 years.

1.4.3:

- There should be an exception to this disclosure requirement for traditional lenders like banks. This could be done by building in a reference to the definition of financial institution in 8 V.S.A. § 11101.

Board response: Recommendation accepted.

- In subsection (b) the reference to "licensed establishment" does not seem to fit, likely drafting error.
-

Board response: Recommendation accepted, deleted that reference.

1.4.4(a):

- It is unclear what benefit the Board could derive from seeing a "plan" to register for a system that the Board may or may not yet have notified applicants they must register for at the time the application is submitted, or what such a plan would look like other than a conclusory statement that the applicant plans to comply. This requirement should be eliminated.

Board response: Recommendation accepted.

1.4.5:

- From the Tax Department: there is a requirement to provide the SPAN number if the applicant owns the site of operations. Is the applicant required to own the site? What if they lease? Leasing land for agricultural use is permitted for current use, so if they are leasing the space for the license, we would suggest you still collect the SPAN number for those parcels.

Board response: Recommendation accepted.

- Subsection (a): Recognizing these are commonly required or recommended for many for types of business, what is the accessibility and affordability of this type of insurance coverage for different types of cannabis establishment given the federal prohibition on cannabis?

Board response: this will be considered when the Board discusses Rule 2.

- Subsection (b): This requirement - and consequent requirements in Rule 1 - is concerning in its ambiguity and nature. We ask that the Board clarify why this requirement exists, and how the amount will be determined. It will be challenging to afford entry into this industry to begin with - what costs does the Board consider imminent and / or concerning upon the cessation of operation of a Cannabis Establishment? Are these concerns for all scales and types of establishment - or particular scales and types?

Board response: the amounts will be considered when the Board discusses Rule 2.

- My comment is in regards to certain licensing requirements. I'll use the requirement for liability insurance or an escrow account as an example. I think this is a valid and important aspect of running a business, especially in the cannabis industry. However, this becomes a "cart before the horse" scenario. In order to secure a bank account (I've checked with VSECU), funding (which would need to go in the bank account), insurance, or almost any other essential component of starting a business, we must FIRST have a state issued license. Therefore, requiring any of these things in order to get a license becomes impossible or nearly impossible. In the case of escrow (in lieu of insurance, pre-license) you would need a significant amount of personal capital to meet the license requirement since both outside funding and insurance wouldn't be available pre-license. Expecting large sums of capital be available before licenses are issued is a significant barrier to entry that is far greater for diversity applicants, much more so than for white male legacy growers who have been benefiting from the illegal market, systemic racism, and systemic sexism.

I suggest a two part licensing system, in which, most everything goes on your initial application, or "preliminary license", other than the factors you can't perform without a license, and that we sign that we understand that in 6 months (for example) we will be subject to an inspection and that we'll need to provide proof that we've taken care of the things that required the licensing (insurance, bank account, etc) or our license will be

revoked. Naturally this would only be necessary for anyone getting their first license, not for renewal, in which case you should have proof that you still have all of the requirements in place from the initial licensing process.

Board response: the Board has already provided for a prequalification approval process that will allow for exactly this type of process to ease in to meeting all requirements.

1.4.6:

- Clarify that business address, along with emails provided in 1.4.1, will be official point of contact for the Board.

Board response: Recommendation accepted.

- Should there be a requirement that diagrams of premises are provided? Currently this is only required of cultivators in a different section.

Board response: the rule requires sufficient information without additional diagrams.

- Depending on the type of establishment, particular business owners may or may not want their location information available to the public. How does the CCB and State plan on making information about different types of establishments - which the establishments provide - available to the public?

Board response: Confidentiality provisions will apply per statute in order to protect certain information.

1.4.8:

- From the Tax Department: we suggest an addition for something like "to the Department of Taxes for purposes of administering the sales tax and the cannabis excise tax."

Board response: Agreed, but limit to simply naming the Department of Taxes in the provision.

1.4.9:

- Make clear that update/progress on 1.4.9 plans are required as part of a renewal.

Board response: Recommendation accepted.

1.4.9(b):

- Is this intended to apply to labs that exist currently? Should new labs be carved out as well?

Board response: Waiver is intended for all labs.

- Why are testing laboratories exempt from meeting the positive impact criteria? Without further explanation, our coalition strongly feels that testing laboratories should be required to meet the same "positive impact criteria" standards as other cannabis establishments.

Board response: Waiver remains for all labs due to the high need for labs for the market to function and uncertainty about whether enough labs will join.

- It is not clear in (b)ii whether these entities are required to satisfy 3 criteria from each section, or 3 criteria in total. If it is 3 in total, we recommend that it specifically be stated that there must be at least 1 from each section (1 from c, 1 from d) as well as 1 more from either section. It is important that businesses of this scale meet both human and environmental needs.

Board response: Agreed, draft will be fixed this so that it clearly requires 3 from each.

1.4.9(c):

- A commenter wants freedom to hire people regardless of their chromosomes. This appears to be a criticism of the inclusive hiring plan provision.

Board response: the provision will remain. It doesn't mandate hiring any particular person, but works to ensure a fair process.

1.4.9(c)(ii):

- paid leave is already required for many VT businesses pursuant to VT statute—should we leave this in regardless?

Board response: This is true, remove paid leave, leave in livable wage.

- Also, clarify that livable wage does not include the value of samples, clothing or other product provided to employees.

Board response: our rule will rely on the definition of livable wage that already exists in statute.

1.4.9(c)(iii):

- Add workforce re-entry programing

Board response: Recommendation accepted.

1.4.9(c)(iv):

- Should the word "including" be removed? Is the intent just for contributions to the CBLF or are there other community contributions allowed? If so, we should define parameters in rule to avoid issues. What level of contribution to the CLBF is acceptable?

Board response: For clarity this will be limited to the Cannabis Business Development Fund.

1.4.9(d):

- Carbon off-sets, and carbon markets more broadly, are rarely legitimate means of reducing pollution and equitably affecting climate change. Pollution must be reduced at its source and we must also increase carbon positive activities such as particular forms of agroecology and regenerative agriculture. Allowing pollution to continue in exchange for improved outcomes in other areas - carbon off-sets and markets, "net zero" - does not lead towards our climate change or pollution mitigation goals, rather it perpetuates the problems of pollution and inequity we face.

Board response: Leave this as is, businesses need options to address climate change, and local businesses are largely stuck using whatever energy is available to them so they can't single-handedly make changes in energy usage by purchasing elsewhere.

1.5.2:

- We do not have a specific recommendation, rather a question as to how burdensome this requirement may be depending on the local utility certifier (whether they are timely in responding, how they exercise their discretion, etc.), and whether this also leaves room for further discrimation against cannabis establishments in general, as well as communities already facing bias and systemic discrimination?

Board response: Leave as is, this is generally a fairly standardized and smooth process.

1.5.3:

- What happens with onsite septic? Does the board need information that onsite septic or wastewater drainage can support cultivation or would that be included with the local permitting process?

Board response: Local processes will cover this, no change in the rule.

1.7:

- We should limit the number of retail stores in Vermont.

Board response: The Board has decided not to have license quotas. If necessary, the Board will close application windows for certain license types to prevent oversaturation or ensure an adequate supply of product is flowing across the market.

- Are retailers only required to provide this list during the application process, or is this a quarterly/yearly submission? Considering the sheer amount of labor and time that operating a successful retail business demands, I suggest that this list be submitted only during periods of application or renewal.

Board response: retailers will not have to provide a full list, but instead note if they plan to sell non-THC products.

1.8:

We would like clarity from the Board related to these unique privileges being proposed for Testing Laboratories: why would the licensing requirements or fees be waived? Have the fees potentially already been paid to another State program (eg. Hemp)?

Board response: The idea is that pre-existing labs have already paid for the license certification to Agency of Agriculture. The Agency is certifying based on the exact same set of testing criteria for the exact same plant. In addition, the fee structure needs to incentivize labs to join.

1.9:

- Ask that the Board remove "free cannabis" as an option as the medical dispensaries are already required to provide a sliding scale fee system. The dispensaries already offer significantly discounted product and do so at a cost to their business. We recommend continuing the sliding scale fee system as it has clear requirements and qualifications that have been in place for years.

Board response: this is a current requirement, there's no need to change this.

1.10:

- In subsection (d): what happens in the one-month window; is there a time limit for when they need to be completed; what if it isn't completed until after the one-month window?

Board response: No need to change, a licensee will effectively have two months' notice before the application deadline would expire.

- In subsection (d)(ii): The rule should require annual application periods for all cultivator tiers, not just tiers 1 and 2.

Board response: No change, the idea is to ensure the market stays focused on small growers.

- Recognizing that the legislatively mandated application acceptance periods are only defined for the initial application period - and thereafter by the CCB; we feel that only assuring a 30 day period every year for accepting licenses is overly restrictive. Ideally, there would be an ongoing application period for licenses. In particular, it is important to consider the particular times / seasons in which cultivation licenses are due for renewal and initial application. Outdoor cultivators in particular will need approval well before the dates currently in statute for the initial application period (earliest approval May 1) - at the latest by the end of January or early February in order to prepare for the season.

Board response: Recommendation accepted; the 30-day window will be required to open on February 1.

- Clarify license renewal with respect to the Board's power not to reopen application periods for certain tiers.

Board response: Recommendation accepted, will clarify that this is only about new licenses, not renewal.

1.11:

- 7 V.S.A. §883 limits the Board's discretion to deny license applications due to an applicant's criminal history to those situations where the applicant's criminal record reveals "factors that demonstrate whether the applicant presently poses a threat to public safety or the proper function of the regulated market" (emphasis added), and further specifically excluding any nonviolent drug offenses. Unfortunately, §1.1.12 is not sufficiently tailored to this statutory limitation, and creates a presumptive disqualification for (1) all misdemeanors occurring within the past 2 years, (2) all felonies occurring within the past 5 years, and (3) all felonies (no matter how long ago) "involving fraud, deceit, or embezzlement" – without any regard as to whether the crimes demonstrate a *present threat to public safety or the proper function of the regulated market*. While §1.1.13 does allow an applicant to overcome the presumptive disqualification by presenting

mitigating factors, requiring an applicant to present such factors to overcome a disqualification turns on its head the express statutory requirement that disqualifications only be based on "factors that demonstrate" those threats in the first place.

Separately, the legislative intent in denying applications based on threats to "proper function" was, in part, based on Cole Memorandum's 2nd priority: "preventing revenues from the sale of marijuana from going to criminal enterprises, gangs, or cartels". While too restrictive in other respects, §1.1.12 fails to squarely disqualify applicants based on factors that demonstrate an ongoing involvement with such criminal enterprises.

Recommendations:

1. Place a time limit on §1.11.2(b) of no more than 10 years, and expressly exclude money laundering offenses which were charged (as is very common) in connection with trafficking cannabis and any other nonviolent drug offenses;

Board response: Leave as is, all offenders have a chance to enter the market if they show rehabilitation.

2. Exclude *all* non-violent misdemeanors which do not involve "fraud, deceit, or embezzlement", and *all* non-violent felonies, from §§1.1.12(e) and (f), respectively (currently only excludes non-violent *drug* offenses);

Board response: Recommendation accepted.

3. Create an express presumptive disqualification for recent criminal records that demonstrate an ongoing involvement with organized criminal enterprises, including violent gangs and drug cartels; and

Board response: Recommendation accepted.

4. In §1.11.3, require (not simply allow) the Board to request additional information to overcome a presumptive disqualification, and to place an application in pending status pending receipt thereof from the applicant, so that the applicant has a meaningful opportunity to respond when the application window would otherwise close.

Board response: Leave as is.

- We feel that the CCB has defined an overly broad net of criminal history which would lead to "presumptive disqualification". And although the CCB has left room for "overcoming presumptive disqualification", this process is fundamentally inverted: presuming guilt of someone with a past criminal history and asking them to effectively prove their innocence and the validity

of their "rehabilitation" to another government entity in order to run a legal business with substantial oversight and regulation.

Board response: Leave as is, all offenders have a chance to enter the market if they show rehabilitation.

1.12:

- Add a bad actor provision, so that someone with a revocation pursuant to Rule 4 must wait for a year (or some amount of time) before reapplying for a license.

Board response: Recommendation accepted; make clear this includes financiers. 1 year waiting period for revoked licensees incorporated.

- Drafting note: there should also be a provision added to clarify that a licensing grant or denial constitutes a final decision of the board for the purposes of appeals pursuant to 7 VSA 847.

Board response: Recommendation accepted.

1.13:

- Perhaps rename provisional licenses to something like "prequalification approval". The term "provisional licenses" could be confusing because it sounds like someone can get one and start operating on an interim basis.

Board response: Recommendation accepted.

1.13.1:

- Can the board open/re-open the provisional license process at any time? Can applicants apply for a provisional license at anytime [the acceptance periods are provided for in 1.13.4].

Board response: Board can open or reopen at any time, as already provided for in the rule. But nobody needs a provisional license prior to submitting a regular application.

1.14:

- Should the details of priority processing be outlined in the rule? If the Board must open up licenses annually, this process will likely be needed each time licensing is opened.

Board response: Leave as is due to the fact that this will have to change as the licensing process transitions from initial licensing to ongoing licensing.

1.15:

- Rule should allow a licensee the ability to move to a new location and pay a relocation fee [this potentially could be provided for in a different place in the rules].

Board response: Recommendation accepted. Change of location will be dealt with the same way as change of control—requires a license renewal.

1.15.1:

- We are asking the CCB to allow Integrated Licenses to renew medical and adult-use at the same time to maximize efficiency. Renewals are time consuming and require the review of large quantities of documents. Should Integrated Licenses be allowed to renew medical and adult-use simultaneously, they will save significant amounts of time.

Board response: this is already how it's intended to work, but this will be explicitly addressed in Board Rule 3.

1.15.2:

- This requires a licensee to apply for renewal prior to "executing" a change of control transaction. The choice of words is unclear, and suggests that the Board may be requiring a renewal application prior to a licensee *signing* an agreement which would effect a change in control. This may have an unduly chilling effect on both fundraising and exit transactions, wherein the public interest lies in ensuring that a change of control transaction is not *consummated* (rather than executed) without the Board's approval.

Recommendation: Replace the word "executing" with the word "consummating".

Board response: Recommendation accepted.

[I'm up to here on inputting changes]:

- Update 1.15.2 with the parameters on transferring the licenses of social equity applicants that were recommended in the social equity report from the advisory subcommittee.

Board response: Recommendation accepted.

1.16:

- There should be a requirement here or in Rule 2 that employees, owners, or principals carry their ID cards at all times while on the

licensed premise. This should be made explicit, except for (i) owners of home-based businesses, and (ii) employees of retail establishments who enter the establishment off-duty as a customer and do not access any area of the establishments which is generally off- limits to customers.

Board response: Recommendation accepted.

- Additionally, in light of pending legislation to allow employee portability of identification cards, the requirement of §1.16.3(a) that an applicant list the licensed cannabis establish where the individual intends to work may be overly restrictive. This should be drafted to accommodate a potential change.

Board response: Recommendation accepted.

- Further, should there be a provision for a replacement process and for the final fate of the card? In terms of the final fate of the card, would it be sufficient to ensure that cards have expiration dates on them?

Board response: Recommendation accepted. Cards should have expiration dates. Licensee can destroy or return it to Board. Replacement process: reapply, but no background check if not expired.

- We are opposed to the background check requirements and overly broad net of criminal history which is referred to, and the general process by which people with particular criminal histories are presumed guilty and ineligible and asked to prove their rehabilitation. We also ask the CCB to recognize that much of what is normally left up to the discretion of a business - whom to hire, what qualifies / disqualifies, etc. - is substantially overseen by the CCB and requires processes and cost like: employee applications, fingerprinting and background checks, fees, etc. This will be burdensome to potential employees and employers - and likely the CCB as well; and we urge the CCB to be as permissive, understanding, and supportive as it can be throughout this process. We appreciate the allowance of the employee to work once the application has been submitted (in statute) - and this at least relieves some of the challenges which could be faced by employers and employees, in particular related to seasonal employment.

Board response: Leave as is, all offenders have a chance to enter the market if they show rehabilitation.

- Drafting issue: make sure the ID card is referenced using the same terminology in each instance.

Board response: Recommendation accepted.

- The Board should generally utilize its authority pursuant to 7 VSA 904a to lower the burden on small cultivators. The rule as originally drafted doesn't do enough on this.
- Specifically, the Board should do the following:

    1. 1.4.2 **Records Check** – waive (g) through (j) (description of criminal actions, description of civil actions, description of administrative actions, description of disciplinary actions against license, registration, or certification, description of any license denial". These would be revealed by your records checks, thus relieving the paperwork burden on small growers by not requiring them to describe them in the application. With respect to civil records, unclear what Board would do with this information anyway or how it would impact a licensing decision.
    2. 1.4.4 **Compliance and Management Plans**. Most of this is excessive for small growers. Waive (b) health and safety plan, (c) storage and record keeping plan, (d) inventory control plan, (e) contingency/continuity plan, and (i) through (l) regarding employees.
    3. 1.4.5 **Insurance, Taxation, and Banking Requirements**. Waive (b) documentation of bond or escrow for cessation of activities.
    4. 1.4.9 **Plans Related to Positive Impact Criteria**. Waive entirely for small cultivators.
       1.5.2 **Water and Wastewater Requirements**. Waive (a) and (b) for small cultivators, at least
    5. those who are growing on their residential properties.

Board response: the Board will ease the burden on small cultivators in the following way:

Rule 1.4.2: Waive (g) and (h)

1.4.4:
(a): eliminate for all.
(a)-(c): waive
(h)-(k): waive

1.4.5: (b): waive

1.5.2: Waive (a) and (b) for home occupancy only.

Cannabis Control Board

Rule 1 Written Public Comment Compilation

Hello CCB!

I've been thinking a lot about how we can use the commercial cannabis market to make things better, and not worse.

I'm particularly concerned about the potential for adding to the solid waste stream - especially given the global prevalence of plastic pollution.

I know that child-resistant packaging has been a huge contributor to solid waste (not to mention the frustration of seniors, who often can't open it).

I understand that the rigor of everything you're demanding with the rules comes from the fear of cannabis after decades of prohibition. But quite frankly, I'm more worried about trash, clean water, and accelerated energy use than I am about someone eating too much infused chocolate (I know it happens, but it's not nearly as dangerous to our collective longterm wellbeing).

I know in 1.4.9.d you talk about prioritizing folks who have plans for using recyclable, compostable, or reusable materials, but that should be a baseline requirement for all VT cannabis establishments.

Can you specifically allow for re-useable tincture bottles and salve tins - either by letting customers come back for a refill or to bring their container back for cleaning and re-use (much like Saratoga Olive Oil Company does).

Are there any options out there for refillable gummy or flower bags?

I'm also thinking about energy use. In 2.5.6 you talk a lot about requiring reporting on energy use reduction efforts, but how do we make it even easier for growing establishments to do the right thing?

If a cannabis establishment can't generate their own clean, renewable energy, why not work to develop and promote cannabis solar CSAs where companies can buy into shares?

Why not even require that all cannabis establishment vehicles (especially delivery vehicles) be electric? Why not require all establishments to have charging stations in their parking lots? After all, there are plenty of options on the market.

After all, we are in a global environmental crisis. From climate change to plastic pollution to resource depletion to topsoil erosion and water/air pollution, all our problems are accelerating rapidly. It's incumbent upon us all - and especially you as rule-makers and industry-overseers - to ensure we're not making things worse.

To that end, I'm also not comfortable with the suggestion in 2.5.6 (c) iv that establishments work with Vermont Gas Systems on energy efficiency. VGS is a purveyor of fossil fuels. They lie about the cleanliness of "natural gas" (which is neither clean, nor natural) and have force fed a fracked gas pipeline

down the center of the state. Much of the work on that pipeline has been documented to be dangerously substandard, and threatens numerous watersheds and waterways.

Thank you for your time and attention.

Kathryn Blume

Hello CCB, I live in Andover, VT and hope very much our state will hold true to our craft industry tradition. I would very much like to apply for a small independent outdoor cannabis permit when available and please do not make the permit burdensome re:cost of permit. Please do not allow large multi state cannabis companies to come in and dominate our industry. This opportunity affords rural Vermonters such as myself to start a craft business that can be handed down from my generation to the next and so forth. Small is beautiful and I look forward to the application process when available. Warm regards

Andrew Izzo

(l) “Socially disadvantaged individual” is an individual who meets at least one of the following criteria: They are (1) from a community that has historically been disproportionately impacted by cannabis prohibition..

Can you please define what constitutes a "community."
Jared Rolston

At the last CCB meeting, I heard that Opportunity Zones would not receive priority consideration. This seems to run counter to the intended purpose and goals of Opportunity Zones as designated economically disadvantaged areas in the state that could benefit by new industries and job opportunities that the cannabis industry can provide. If a farm or business has been domicile in such zones for some period of time, they should be given priority consideration.
Jared Rolston

Hello,

What is your definition of square footage in regards to plant canopy. So a 1000 sq ft plant canopy be by actual plant canopy per room, how does it apply to vertical (tired farming).

So If I have 1,000 sq foot of plant canopy in a room with a additional 1,000 sq ft of plant canopy directly above it in the same room. (Two levels of 1,000 sq foot of plants per level, in the same room).

What is the square footage of plant canopy.

To be clear, plant canopy only counted for flowering, is that correct?

Thank you so much for you time and professionalism and making this Emerging industry a reality.

Sincerely,

Michael K. Hoffman

831 818 4187

Please stand by an original intent to give women & minority owned small businesses a break. My partner and I are senior citizens who make and give away fir free muscle salve and sleep oil made from marijuana plants. We can’t afford an $850 permit or a greenhouse fee. We want to continue helping our neighbors with plant medicine from our 4 plants and add a bit of money to our Social Security income.
J. Lily Doyle

On trying to calculate whether it would be financially feasible to join the small cultivators market, one would need more figures to work with. I see the anticipated fees for licensing and lab testing, and can figure out the operating costs. However, I don't know what the anticipated "income" would be for a small cultivator, with a canopy of 500 sq. ft. or so, that would sell flower to the market. In what quantities would they be purchased, in ounces? And do you anticipate, if the quality is high, as much as can be reaped? I realize my answers would be purely speculative, but something to go on would be very helpful.

Patricia Warren

I have concerns about the fees involved with getting a license to sell cannibals products. I am hopeful that the board will consider the size of any operation when imposing fees. I am in my 70â€™s and I make out of cannabis a slave using my bees wax and other organic products. I have never sold any and just give it to family and friends. It helps with sore muscles, muscle cramping and swelling. It is not something which you can get a high from. I would like to start selling my product from my home. I am very limited on the amount I am able to make due to the fact I only have 2 beehives and only grow 2

plants per year. If the licensing fees are high, it would not be financially feasible for me to apply. I am respectfully asking the board to please consider a lower fee for people like me.

Kind Regards, Parma Jewett

First let me say that I appreciate that what the CCB is trying to do in a very short period of time is an extremely difficult task. There are so many details to get right. Its a very challenging situation. I very much appreciate that you are working to get it right. But I'd like to bring up something very basic that I think you are getting terribly, terribly wrong. Your sizing for indoor Tiers is so out of whack it is shocking and scaring most small growers right off the page. You list 1000sf as the smallest size for an indoor grow. Everyone under 1000sf will be grouped together. Do you have ANY idea how many small growers you just booted out of the mix? NO small grower has 1000sf indoors. That is just NOT a thing. I know many, many small growers in VT and not a single one of them has that sort of operation. 50x20?? Are you kidding me? Thats a warehouse. 250 sf is a very big "small" operation. Most small growers in our state operate in under 100 sf. I want you to think about what it means to a small grower to be lumped in w/ commercial outfits that have the investment capital to sponsor a 1000sf grow. Because thats exactly what you are doing. You are throwing every small grower into a completely unbalanced and unfair pool of competition, just exactly as you assured us all that you would NOT be doing. But thats exactly what this is. Never mind the extremely challenging administrative hoops (see "Insurance and banking") you're asking every small person to jump through. You're asking them to do all that just to enter into an arena w/a bunch of much bigger and better funded operations to try and make a go. The proposed Nov 24 rules have basically scared shitless every single small grower that was considering getting a license and jumping on board as a wholesaler within the legal framework laid out by the CCB. That is where you are currently leading us. So how many small growers will agree to all of those administrative requirements knowing they must compete w/ someone 10x their size or better? You won't get a one is my prediction if you keep the sizing as it currently sits. You have the framework available to adjust ..... you've all ready separated indoor tier size from outdoor. Why not take the much-needed second step and re-adjust the indoor sf numbers to actually reflect what is happening in our state. If you have 1000sf of indoor growing space working then you are NOT a small grower in VT. You are a giant. You have financial backing. You are 1/4 to half the size of the existing medical dispensaries. Is THIS the model you are hoping to promote in VT? If you keep the 1000 sf tier size as the lowest indoor level then you will force every small grower right back into the black market and you will have the highly financed sharks fighting each other for the available market. So, basically we will become CA, WA, OR, and every other state that has completely destroyed their local cannabis markets by not including the small producers. This is directly where you are steering by choosing those indoor Tier sizes without regard to the on-the-ground reality of what actually happens in VT.

Again I will state that I understand the difficulties presented by the job in front of you. You have done so much in a short period of time. I'm attempting to offer some perspective from someone who has an eye on the local trends and conditions while there is still time to save the model. Keep that Tier 1 indoor at 1000sf and you will lose every small grower that was looking to legalize and get involved within the framework established by the CCB. I appreciate your time and consideration in this matter. I did not offer alternative suggestions for sizing but would be happy to contribute some input on re-sizing if the board decides to revisit this issue before it is too late.

Respectfully, I thank for your time and all you are doing, and trying to do, for all of us VTers.

Christopher Mayone

Hello, Would current medical patients be considered social equity applicants?

Many registered patients are currently farming in a small scale, and a path towards commercially viable production seems logical, for those that choose to do so.

I'm a bit concerned by the lack of mention of currently registered patients in the proposed licensing regulations.

It seems registered patients should certainly qualify as social equity applicants, and programs tailored to these applicants would seem wholly reasonable.

Thank you,

Larry Phillips

I see that Proposed Rule 1 1.1.3.f states:

(f) Outdoor cultivation means growing Cannabis in an expanse of open or cleared ground that is not enclosed by a structure and in a manner that does not use artificial lighting.

And yet in many other places the rules require "fencing" for outdoor grows. Arguably "fencing" is by definition a "structure".

Perhaps this might be a problem.

Thank you

Kim Kolakowski

Cannabis Control Board,

I am just submitting a public comment in an effort to show support of a possible license type that you guys have talked about.

I am hoping that you will make available a delivery license. Based on the outlined criteria, I will be eligible to apply as a social equity applicant.

I am planning on applying for a Tier 1 cultivator license, and so would like to be able to sell and deliver my products directly to consumer.

I am a born and raised Vermonter, and am a UPS driver. Over the past couple of years I have seen how UPS has exploded in growth. I am confident that starting my own cultivation and delivery business will allow me to build a successful venture so that I can quit my full time job with UPS and dedicate my efforts to my own business.

Thank you,

William Bassler

To the Cannabis Control Board,

I have read the proposed rule for license application and have the following comments:

As a small-scale beef and pork farmer, I have developed a profitable business cultivating and selling direct to consumer high quality, unique products. The USDA has prevented me from processing on-site, but I am fortunate to have a local processor that does a good job. I envision a similar business for cannabis; growing a small number of plants (less than 50), processing on-site (extracting into oil, making into edibles) and selling direct to consumer (through our existing network of contacts in the state). However under the proposed rule I would have to apply for three licenses, cultivator, manufacturer and retailer. I would hope that the board would provide an efficient and easy method for someone like me to apply, and not require performing the same tasks three times.

It is possible that over time I determine it's more efficient and profitable to simply grow and sell cannabis wholesale as a cultivator, but that will depend on the price, access and quality of the rest of the market. I expect in the beginning to have to do most of the work myself.

Further, I noticed in the application process a requirement to hold insurance against liability. I would hope the board has researched this topic and found reasonably priced insurance options for all license types in Vermont. I am imagining my insurance agent fainting at the thought...

Lastly, I commend the board for the timeline proposed. This timeline will allow outdoor cultivators to legally begin growing in 2022. If the rulings get delayed, I would urge the board to consider providing cultivator licenses to outdoor cultivators in April, so the crop can begin growing while the rest of the ruling is sorted out. An outdoor cannabis plant won't be ready for harvest until October or November of 2022.

Thank you for your time!
Nick Zigelbaum

Hello. Kelli Story again.
I wanted to ask the people making the recommendations to please take the time to TRY the various types of edibles made from different infusions. I am very upset that you want to put what I do in the same category as those whose extract using harsh chemicals. I have offered board members my products at events to give you the chance to actually try the organic and chemical free products I make, and others make too. I'm not the only one using this popular (and safest) method of infusion. I was told that you guys aren't allowed to take gifts. Even when they are literally the products you are supposed to

be fairly making Vermont custom recommendations on. I'd really like you to see for yourself the difference in infusions and the effects of those different methods. I use Low heat extraction. No chemicals just organic matter, and its the type of product that you would give your grandma for rest and relaxation. The 5mg cap is absolutely ridiculous. Absolutely. You will ruin what I and other cannabakers do, with that level. Go to 10 at a minimum please, other legal states have set 10mg caps. There is no good excuse why Vermont can't ATLEAST do that. Please please please. I don't think you really are getting how negative a 5mg cap is going to impact the new legal market. Unless you're fluent in our current black market options, you wouldnt get it. So please. I beg you, I would even invite you into my kitchen to see firsthand what is going into my products to help you understand firsthand how a typical black market artist may operate. Please don't go with 5mg caps on edibles.

Hello, my name is Ben Fisher. I have been growing hemp since 2016 in Vermont as a part of the 2014 federal pilot program with universities and have been growing hemp ever since.

I am writing to voice my support for a cultivator retail license. I really think that this is a great idea. As a potential cultivator I have been most concerned with getting my product to market, and getting it there at a fair price. Retail sales direct from farms would be a huge boon to farmers and tourism. The community could create a "Cannabis Trail" or "Cannabis Passport" like we have in the state for breweries, vineyards, distilleries, and like the vineyard trail across the way in New York.
To keep everything safe, I could envision a limit on customers allowed in the farm retail space. This was a discussion point around retail establishments but has since been abandoned to my knowledge. I think that this sort of concept could be very helpful for establishing smaller retail outlets. For example, a farm could build a small secure room with all the regulations applicable to traditional retail establishments, but to improve safety only allow 1-2 people at once. On farms this would not be as much of an issue as it might be in a business district in a town. People waiting could wait outside on a nice day or stay in a car or waiting room with educational material and descriptions of products inside the sales area.

Curbside pick-up from farms and delivery direct from farms also make lots sense. Allowing farms to make sales direct to consumers in any form will significantly increase a cultivators economic viability. This kind of competition between retail locations and farms will also help to keep prices from being artificially inflated by brick and mortar retail locations, who in the current rules are the sole avenue to sales of any sort for cannabis products. Customers may not be able to find the variety of products found at a full on retail establishment at a farm. This difference could create an incentive for both options: retail store and farm retail. Farm retail could be slightly cheaper and a fun tourist activity, whereas brick and mortar retail stores would offer a wider range of products.

Thanks so much to all of you at the CCB for your work and taking time to listen to the public. I think overall things are moving along great and I am very excited out 2022!
Benjamin Fisher

What is stopping VTers from legally isomerizing hemp derived CBDA isolate into d9-THC, formulating edibles that are less than 0.3% tTHC and selling them in 50 states?

I understand that this process was banned for producing hemp derived d8-THC as I worked for the lab who was doing this when the legislation was drafted. The bill cites the reasoning for the ban to be the lack of d8-THC in hemp, therefore it is considered "synthetic".

This is not the proper use of the word synthetic. In chemistry, synthesis means to derive a complex

compound from simpler building blocks. When you convert a plant isolate in a subtle manner the reaction could be considered semi-synthetic at best.

There being an allowable and therefore appreciable amount of d9-THC in hemp, does this ban then not apply to hemp derived d9-THC?

How does the hemp bill effectively ban "solvent" extractions, while allowing use of ethanol and scCO2 as solvents for extraction?

Alcohol is an excellent solvent, as is scCO2. There are no extractions without solvents. Even in mechanical ice hash extraction, the solvent is water.

Alcohol is flammable and scCO2 has very high pressures. What is the justification for banning butane then? It is low pressure and flammable. I get that it's risky, but so is alcohol extraction and CO2.

When the VT CCB absorbs the VT hemp bill in the coming year, can we expect both of these issues to be resolved?

I believe we should not be so unreasonably restricted in our manufacturing options. The result is cost prohibitive entry into the market as cryo-ethanal and supercritical CO2 extraction equipment require orders of magnitude more capital than closed-loop butane technology, while having similarly controllable risks.

I own an unused closed loop butane system id like to put to work right away, but this solvent specific ban is unfair to small start up enterprises, which VT claims to be friendly to...

Might you develop tier 1 and 2 hemp processors licenses? Might you allow cross over of hemp and cannabis processing?
Matthew Falco

We are writing to advocate for multiple mixed tier licensing options.

After yesterdayâ€™s board meeting, we realized it may be helpful to see specific recommendations regarding adding multiple mixed tier licensing structures.

We encourage prioritizing this because the cultivation licenses will be the first ones rolled out; therefore, the foundation set now for cultivation licenses will impact other licenses down the supply chain.

Old Growth Organix recommends the following mixed tier structures:
(Ultimately, we recommend moving towards the scale of approximately 1:2:4 (indoor:mixed-light: outdoor); however, for now, we are recommending the following tiers given the complexity of implementing the 1:2:4 method at this moment.)

Tier

1. 1000 sq ft indoor; 100 plants outdoor
2. 2000 sq ft indoor; 200 plants outdoor

3. 3000 sq ft indoor; 300 plant outdoor

Benefits of implementing these recommendations:
â€¢ Supports The Boardsâ€™ fundamental responsibility, â€œâ€¦to encourage and facilitate outdoor and mixed light growing over controlled environment indoor cultivation.â€

â€¢ Supports The Boardsâ€™ mission, â€œâ€¦ to encourage small cultivators and entrepreneurs in the legacy market to enter the regulated market by reducing barriers to entry and facilitating innovation.

â€¢ Supports small cultivators and small business - Outdoor methods produce different products than indoor methods, and small cultivators need to be able to produce for the broad market to remain competitive.

â€¢ Helps address the public request for variation and the ability to pick and choose a grow that works for a variety of farming techniques.

â€¢ Possible tentative solution to the public request for canopy size deregulation

We urge you not to implement a mixed tier structure that increases the size of one category and not the other.

We believe the last recommendation that we heard was to add a second tier that would keep the indoor size at 1000 sq ft while increasing the outdoor plant count to around 100. The problem with increasing capacity for one grow method and not the other is that it does not account for market growth. We are requesting a mixed tier structure that would allow for expansion and product variation for farmers not currently capable of producing enough product to qualify for a top tier in either category.

Also worth noting, given the definition of canopy size, if the indoor space does not increase with the outdoor count, farmers would be losing the space necessary to veg plants. Furthermore, once a business looks to expand their operation, it will be more difficult to provide customers consistent supply of the various products which may reduce brand loyalty.

We believe implementing these recommendations is not only in alignment with fulfilling your original purpose targeted at supporting small businesses and farmers but also addresses multiple other goals that are in alignment with your mission. Wins all around!

Thank you for your consideration.

With gratitude,

Old Growth Organix

Jessica Jesiolowski

It is my understanding after speaking with VSECU that they have put a moratorium on opening any accounts for cannabis businesses. This will be problematic as we move into adult use retail. I also have not heard of a plan to transport cash from retail establishments to financial institutions.
Scott Sparks

Hello, My name Is Ben Fisher. I am writing to again voice my support for farm sales. Upon further thought and deliberation amongst hemp growers and potential recreational cannabis cultivators, it is apparent that allowing farms to sell direct to consumer in anyway at all would improve participation in the market place. The biggest reservation amongst growers to go legal is being able to bring their product to market. In particular our states hemp growers (who have the practical experience to grow high quality cannabis at scale) have struggled to sell their hemp and are rather pessimistic about their ability to sell their product if they invest the large amount of capital it will take to run a legal grow(the best quotes for a tier 4 outdoor fence without a security system is running a minimum of 20k and the price per linear foot is higher for smaller operations). Personally I plan to participate in the legal market in spite of these challenges though I remain skeptical of my ability to sell at a fair price or sell at all.
I whole heartedly believe (as do many other cultivators) that if there is any system at all for farmers to sell direct to consumer it would dramatically increase market participation.
The means of participation by farmers/cultivators could be limited to the safest and lowest risk methods such as only delivery or only curbside pick up. Delivery would be handled such as any delivery service offered by a retail establishment and if necessary in could be run by a third party. Curb side pick up could be done through a window with a sliding/revolving slot to exchange cannabis and cash, similar to a drive through bank window or late night convince stores in urban areas. I am not sure if Vermont has many of these style windows in convenience store but they are very common in more populated/urban areas.
I sincerely hope that you all at the decision making level take these points into consideration and make allowances or farm retail. What I am expressing is representative of the opinions of hemp and cannabis cultivators throughout the state. I believe that allowing farmers to sell their own product will be best for the market as a whole.
Thank you for your time and all of your hard work!
Benjamin Fisher

Much appreciate the work with the 125-plant count outdoors as equivalent to 1000 sqft indoors.

To crystallize some of the scientific basis and rationale for this equivalency¦ We start with scientific literature specifying common indoor yield ranges of 1 ounce of flower or more per square foot, including with use of methods such as Sea of Green (SOG) in which these yields are achieved within 45-50 days:

*https://wayofleaf.com/cannabis/growing/sea-of-green-method

*https://hydrobuilder.com/learn/sea-of-green-method/#How_Much_Does_A_Sea_Of_Green_Plant_Yield

*https://i49.net/blog/tips-and-techniques/optimizing-yields/sea-of-green-farming/

*Cervantes, Jorge (2006). Marijuana Horticulture: The Indoor/Outdoor Medical Grower's Bible, Van Patten Publishing, Vancouver, WA.

*G. Green, The Cannabis Grow Bible: The Definitive Guide to Growing Marijuana for Recreational and Medicinal use, fourth ed., Green Candy Press, San Francisco, CA, 2001.

*Leggett, T. (2006). A review of the world cannabis situation. Bulletin on Narcotics, Vol. LVIII, Nos 1 & 2, pp.1-155.

*Toonen, M., Ribot, S., & Thissen, J. (2006). Yield of illicit indoor cannabis cultivation in the Netherlands. Journal of Forensic Sciences, 51, 1050-1054.

*Vanhove, Wouter, Patrick van Damme, Natalie Meert (2011). Factors determining yield and quality of illicit indoor cannabis (Cannabis spp.) production. Forensic Science International 212:158-163.

*Vanhove W, Surmont T, Van Damme P, De Ruyver B. (2012) Yield and turnover of illicit indoor cannabis (Cannabis spp.) plantations in Belgium. Forensic Sci Int. 2012 Jul 10;220(1-3):265-70. doi: 10.1016/j.forsciint.2012.03.013. Epub 2012 Apr 13.

1000 square feet in the SOG method would thus produce 1000 ounces, which equals 62.5 lbs, within 50 days.

By contrast, outdoor cultivation of cannabis in Vermont rarely produces more than 1 pound of merchantable flower per plant at optimal spacing over 100 days. We know this from our direct experience in commercial outdoor cultivation of cannabis (hemp) in Vermont over the last three years, at multiple locations with varying site characteristics and cultivation/spacing regimes. Information we have received from our industry peers indicates the same findings; one pound per plant is a solid optimistic rule of thumb for outdoor production in Vermont. It is worth noting that this rule of thumb is in line with the highest yield estimates found in the literature such as in Leggett (2006).

With indoor cultivation producing 62.5 lbs within 50 days, that equals 125 lbs within 100 days. At 1 pound per plant outdoors, 125 plants cultivated outdoors is thus the equivalent in terms of productivity to 1000 square feet indoors.

This science and evidence also demonstrates that the same equivalency applies to greater square footages as well: 2500 sqft = 312 plants; 5000 sqft = 625 plants; 10,000 sqft = 1250 plants; 20,000 sqft = 2500 plants, etc.

(For the record¦) My name is Herrick Fox; I reside in Colchester and co-own, with my wife Jen Daniels, a hemp production company based in St. Albans that farms in Irasburg and Charlotte, VT, and with two farms each in Michigan and California. Jen and I would like to offer comment deriving from our companys 3 years of experience with hemp production, Jenâs 20+ years of professional experience in community development and social equity, and my 25+ years of professional experience in sustainability and climate, forestry/land management, and ag value-chain capacity building. My experience includes 15 years with USDA and US Senate Agriculture committee in a variety of management, senior policy/rulemaking and executive roles.

Herrick Fox

Good morning, I wanted to ask a few questions bases on the information we currently have.
There are few processes and systems within the rules that I feel need more attention to detail and understanding.
RETAIL
1. Will a retail facility need a separate entrance and exit?
2. Does a retail facility need a vestibule type situation for ID checking?
3. There is mention of a break room and office space, and ample storage, are there more details on the expected parameters of those?
4. When can we expect more information on Seed to Sale tracking systems? This information needs to be in a business plan for all potential retail applicants.
PROCESSING
1. As a processor of products for other Vermont Companies, Iâ€™d like to see clear rules on tracking, and transferring distillate. Some of these VT brands use their oil in our products, then they are returned to the Company for distribution. I know they want this to happen in the rec market as well. Iâ€™d like to see more clarification on this process and understanding from the board member about the chain of command of oil/ distillate & transferring the finished product that is intended to be packaged and distributed by them. Will we need to package in the processing facility? Does it matter if there is documentation and manifests? If we could clarify this.
2. There are many ways to create a dosable product that a customer can clearly define and comprehend. Clearly gummies and products like them are individually dosed with a specific amount per package. My question is about baked goods, what are the expectation to clearly define a dose on a cookie, or brownie? It is unrealistic to have a 5mg whole brownie, and canâ€™t have a 50mg, (HOPEFULLY HIGHER) whole cookie without dosing information. Is it an expectation of indentations? Is it transfer paper, a template? So we need to have 5mg â€œpieces? Thank you for clarification.
3. I have had cultivators ask me, if they sell someone 5lbs of flower does it have to be packaged or can it be a full pound to be packaged in a processing facility. Can we clarify the language?

Social Equity
It is my Understanding that the advisory board recommended that the Control Board remove Women from the social equity guidelines in Vermont. Federally women are included. There is language throughout the Regulations and Licensing that states women are disproportionately affected. Female CEOs in the Cannabis industry are declining, not increasing, as a business grows, they are increasingly taken over by large corporate predominantly male boards. Female historically work harder to be heard and respected and taken seriously in this industry, and in the business world in general, until these numbers change, I believe female should be part of the social equity conversation in Vermont as it is Federally.

Medical Patient Rights
As a medical patient, I personally am not happy with my options. An advocate for the Medical Program, I am as concerned as anyone that the integrated dispensaries will not be able to keep up the supply with the demand. I know medical patients are concerned about their rights and access. I have advocated in the past for ALL dispensaries to allow Medical Patients to cut to front of lines, Tax free product, and higher medical potencies. If we allow ONLY the Integrated dispensaries to sell to Medical Patients, they will have less choices than the average customer.
As a medical patient myself, I want to be able to choose where my medicine comes from and not be confined to the same 3 Choices only that I have had for 5 years.
As a potential retailer I would like the option to provide to medical patients, even if that means some adjunct licensing. Personally, I think it should be up to the Medical Patient to choose and they should have more choices than the rec Market customers. Stronger language advocating patients in the regulations would be a recommendation of mine.
Thank you for listening and thank you CCB For doing such a thoughtful job.
Sincerely,
Meredith Mann

1.3.1 (b) and (f) The definitions of "indoor" and "outdoor" cannabis do not seem to include or contemplate greenhouse buildings that do not use artificial light. Regulations should contemplate and allow the use of enclosed structures that do not use artificial light.
1.3.1 (j) replace "of" with "or" in second line.
1.3.1 (i) consider adding state residency requirement.
General comment: farmers should be allowed to cultivate, process, and manufacture (tier 2) without oppressive land and zoning regulatory requirements. Outdoor and greenhouse cultivation should be defined as agriculture.
Thank you for the opportunity.
Kevin Bopp

DRAFT RULE 1 â€“ LICENSING OF CANNABIS ESTABLISHMENTS

DRAFT FEEDBACK

VCTA

1.1 Section 1: General Provisions
1.2 Section 2: License Application Format and Fees
1.3 Section 3: License Tiers
1.4 Section 4: License Application Requirements for All License Types
1.5 Section 5: License Application Requirements for Cultivators
1.6 Section 6: License Application Requirements for Manufacturers
1.7 Section 7: License Application Requirements for Retailers
1.8 Section 8: License Application Requirements for Testing Laboratories
1.9 Section 9: License Application Requirements for Integrated Licenses

Ask that the Board remove â€œfree cannabisâ€ as an option as the medical dispensaries are already required to providing a sliding scale fee system. The dispensaries already offer significantly discounted product and do so at a cost to their business. We recommend continuing the sliding scale fee system as it has clear requirements and qualifications that have been in place for years.

1.10 Section 10: License Application Acceptance Periods
1.11 Section 11: Criminal Records and License Suitability Determinations
1.12 Section 12: Issuance of Licenses
1.13. Section 13: Provisional Licenses
1.14 Section 14: Priority of Board Considerations for License Applications
1.15 Section 15: License Renewal Procedures

1.15.1 License Renewal Timeframes
We are asking the CCB to allow Integrated Licenses to renew medical and adult-use at the same time to maximize efficiency. Renewals are time consuming and require the review of large quantities of documents. Should Integrated Licenses be allowed to renew medical and adult-use simultaneously, they will save significant amounts of time.

1.16 Section 16: Cannabis Identification Cards
1.17 Section 17: Applicantâ€™s Ongoing Duty to Disclose
1.18 Section 18: Confidentiality

DRAFT RULE 2 â€“ REGULATION OF CANNABIS ESTABLISHMENTS

DRAFT FEEDBACK

VCTA

2.1 Section 1: General Provisions
2.2 Section 2: Regulations Applicable to All Cannabis Establishments
2.3 Section 3: Regulations Applicable to All Cultivators

2.3.5 Cultivator Packaging
VCTA recommends adding a hardcopy CoA at the time of receipt of product to this list.

2.4 Section 4: Regulations Applicable to All Outdoor Cultivators
2.5 Section 5: Regulations Applicable to All Indoor Cultivators
2.6 Section 6: Regulations Applicable to All Manufacturers

2.6.3 Additives
VCTA recommends allowing the addition of herbal additives to stay competitive with neighboring states.

2.7 Section 7: Regulations Applicable to All Wholesalers

2.7.1 Wholesaler Security
(b) VCTA recommends looking to insurance providers for security requirements. The safe being bolted to the floor originated in requirements from insurance companies for theft insurance.

2.8 Section 8: Regulations Applicable to All Retailers

2.8.2 Retail Security

90-day storage is a significant added cost. The medical cannabis dispensaries are required by Rules to keep 30 days of stored footage. Incidents are addressed in the immediate 24 hours and footage from an incident can be saved should the CCB request that occur.

2.9 Section 9: Regulations Applicable to All Testing Laboratories, Cultivators, and Manufacturers

2.9.2 New Tests
VCTA recommends looking to align THC requirements with those of hemp. There is currently a 20% tolerance for hemp vs 10% for cannabis. With the cap of 5mg per serving and an increase in demand for micro-dosing, 10% may be difficult to obtain and will result in large amounts of waste.

2.10 Section 10: Regulations Applicable to All Integrated Licenses

2.10.3 Co-located Operations
(b) Recommend allowing integrated licenses to co-mingle inventory until the they reach retail. Requiring separate inventory will cause the business to incur double the costs.

2.10.4 Duty to Maintain Continuity of Services to Medical Patients
Integrated Licenses should be permitted to purchase product from T&R license to sell to registered patients through medical dispensaries in an effort to ensure medical patients have continuing access to product.

The inventory tracking and transfer of product between medical and adult-use should only be an issue if the Integrated License tier sizes are over the maximum allowable amount for adult-use. I would suggest including language that details the need to separately track or transfer inventory from Medical to Adult-Use should only apply if the total canopy for both operations is above 25k sq ft. This should simplify things dramatically while addressing the Boardâ€™s concern that Integrated Licenses would try to use medical cultivation to increase their tier size for adult use.

2.10.5 Use of Dispensary Cultivation for Integrated Licenses
If there is excess medical product, the Integrated Licenses would like to have the option to transfer to T&R with explicit approval from the Board. This will prevent product from expiring and will support current medical dispensaries.

2.11 Section 11: Licenseeâ€™s Ongoing Duty to Disclose
2.12 Section 12: Confidentiality
2.13. Section 13: Regulatory Waiver

Meg D'Elia

I strongly support the Boardâ€™s apparent inclination to adopt the 125-plant equivalency to 1000 square feet of indoor production and utilize this standard for the small-cultivator outdoor tier.

I also urge the Board to establish square footages that will accommodate this equivalency at the higher outdoor tiers as well. If outdoor cultivation cannot be at least equivalent in productivity to indoor, the tier structure will discourage the cultivation practices that are essential to the legislative intent of promoting small farms, social equity and environmental sustainability.

In my previous comment submitted via the CCB website I provided the scientific basis for this

equivalency, and I hope it is helpful for substantiating its application in the regulations to be promulgated by the Board.

That said, the statute clearly directs the Board to establish cultivation tiers based on square feet of live plant production, not number of plants [7 V.S.A. Â§ 861(24) and Â§901(D)(2)(A)(i)]. Thus, if the tiers are to be equivalent in productivity, then the square footage for outdoor cultivation must accommodate the appropriate number of plants. Happily, nothing in the statute precludes the Board from implementing such a tier structure.

The scientific literature Iâ€™ve provided shows that indoor cultivation yields 0.125 lbs/sqft within Vermontâ€™s 100-day outdoor growing season (1 plant per square foot, 1 ounce per plant per 45-day rotation). By contrast, based on my 3 years of experience in commercial outdoor cultivation of cannabis (hemp) in Vermont, outdoor cultivation produces no more than one third of indoor yield: 0.040 lbs/sqft (1 plant per 25 square feet, 1 pound per plant per 100-day rotation).

As such, the square footage for each outdoor tier must be at least three times that of the corresponding indoor tier for the two to be equivalent in productivity. The following table presents recommended square footages for each tier indoors and outdoors, along with their associated yields over the course of Vermontâ€™s 100-day outdoor growing season:

	Indoor (2 rotations)		Outdoor (1 rotation)	
lbs/sqft per 100 days	0.125		0.040	
	sqft	lbs/yr	sqft	lbs/yr
Tier 1	1,000	125*	3,125*	125
Tier 2	3,000	375	9,375	375
Tier 3	6,000	750	18,750	750
Tier 4	12,000	1500	37,500	1500
Tier 5	18,000	2250	56,250**	2250
Tier 6	24,000	3000	75,000**	3000

*: Â§904a flexibilities are needed to allow for Tier 1 to be expressed in # of plants instead of sqft.
**: These tiers may not be immediately implementable due to Act 250 constraints.

Additionally, in order to maximize environmental benefit and accommodate variations in field conditions, square-footage must be counted based on rows actually containing cannabis plants, not for a field as a whole. This will allow growers to interplant rows of other crops and intersperse native vegetation as habitat for pollinators and pest predators, which supports soil health, integrative pest management, and every farmerâ€™s need to optimize planting for microsite characteristics impacting soil characteristics, irrigation and operational efficiency. This can be accomplished by calculating the linear sum of every row containing cannabis and multiplying by 5 feet, which best approximates the average diameter of mature outdoor cannabis plants in Vermont. Using this approach, ten 200-foot rows of cannabis plants would comprise 10,000 square feet of plant canopy regardless of the distance between rows of cannabis. And to the extent a maximum parcel size of 37,500 sqft is needed to accommodate Act 250 concerns, such a limit could be established for all tiers.

Accommodating equivalent indoor and outdoor productivity is essential for meeting legislative intent and APA compliance:
1. Promoting small farms and social equity. Since outdoor cultivation requires far less capital than

indoor cultivation, equivalent productivity provides the greatest assurance that the tier structure will not disadvantage those who lack the means for indoor operations. If the square footages for outdoor tiers do not accommodate an appropriate number of plants, outdoor cultivation will not be a viable proposition.

Consider a 5,000-sqft outdoor grow, with a theoretical maximum yield of 200 lbs that must be reduced to 160 lbs to factor in a best-case scenario of 20% crop loss. Of this, the top third could be expected to produce premium flower ($800/lb) while the remainder would likely be sold as biomass for THC extraction at no more than $200/lb, for a potential revenue of $64,000â€”if all the inventory sells.

With the total cost of producing a 160-lb harvest easily over $46,000 ($50/lb for biomass, $200/lb for premium flower, and at least $20,000 in fixed costs for licensing and compliance), itâ€™s hard to imagine any farmer taking such a risk for a potential return of no more than $18,000, or 39% ROI. Most farmers depend on at least 100% ROI, even for a low-value crop like hay.

2. Promoting environmental sustainability. With the enormous consumption of electricity for indoor cultivation, outdoor grows must not be discouraged if Vermontâ€™s cannabis market is to meet any meaningful standard for sustainability. The same holds true for wastewater and harmful chemicals. Furthermore, with an environmentally smart approach to calculating outdoor canopy size as mentioned above, Vermontâ€™s program can become a national model for encouraging sustainable agricultural practices such as cover cropping, integrated pest management, permaculture, etc.

3. Differentiating and elevating the comparative advantage of the Vermont brand. Vermontâ€™s 13 million annual visitors are central to the success of our cannabis market, yet these visitors increasingly come from states that already have their own thriving cannabis markets. Indoor production in Vermont is unlikely to offer much of a distinction from the offerings these visitors can find at home, as the methods and materialsâ€”and in most cases the geneticsâ€”will inevitably be much the same. On the contrary, it is Vermontâ€™s particular growing climate and small-farm culture that will differentiate the Vermont brand and encourage our out-of-state visitors to sample our products, in much the same way as they currently support our maple, dairy, cheese and meat producers. Vermontâ€™s longstanding reputation as the â€˜Emerald Triangle of the Eastâ€™ did not develop in basements and converted warehouses, but rather thanks to our brilliant summers and the hasty arrival of crisp weather and shorter days in the vibrant fall.

4. Compliance with the Vermont Administrative Procedures Act. Care must be taken to ensure that regulations cannot be challenged on the basis of arbitrary (let alone capricious) decision-making. With credible scientific evidence available to support the establishment of tiers based on square-footages to accommodate reasonable expectations of yield, a tier structure that ignores such evidence will be vulnerable to objections by the LCAR and/or challenges in court. The rulemaking decisions could be further asserted as capricious if the tier structure creates an appearance of preferential treatment for indoor cultivation and the well-capitalized enterprises most interested in it. Establishing a level playing field based on scientific evidence is the surest way to avoid such outcomes while demonstrating sound decision-making and adherence to legislative intent.

For The Record: My name is Herrick Fox. I reside in Colchester and co-own, with my wife Jen Daniels, a hemp production company based in St. Albans that farms in Irasburg and Charlotte, VT, and with two farms each in Michigan and California. Jen and I would like to offer comment deriving from our companyâ€™s 3 years of experience with hemp production, Jenâ€™s 20+ years of professional experience in community development, social equity, and landscape architecture, and my 25+ years of professional experience in sustainability, climate, land management, and agricultural value-chain

capacity building. My experience includes 15 years with USDA and US Senate Agriculture committee in a variety of management, senior policy/rulemaking and executive roles.
Herrick Fox

As a nurse, I hope to see statewide cannabis education standardized, evidence based and mandatory for all.
As a woman, I would like females to be considered priority for licensing, whether as social equity applicants based on the drastically low and decreasing number of women in cannabis, or considered immediately after SE applicants, and before everyone else please.
I also support patients being able to shop at any adult use retail without paying adult use taxes.
I appreciate your time.
Samantha Gambero

Will women and LBGQT be included along with Felons/BIPOC for license prioritization? Or would they be included in a 2nd round of priority?

Andrew Allen

Hello, my name is Brandon Pollock, I am the CEO of Theory Wellness which operates medical and adult use licenses in Massachusetts and Maine. Notably, we were the first licensed outdoor cultivator in Massachusetts in 2019 and have been successfully operating an outdoor cultivation facility for three years.

My comments relate to opportunities relating to definitions of "Canopy" for the purposes of relating outdoor cultivation tiers.

1. It would be helpful to define this term in both how it is being measured, and what plants it applies to. Recommendations would be have canopy defined as "an area to be calculated in square feet and measured using clearly identifiable
boundaries of all areas(s) that will contain Flowering plants"

2. For outdoor cultivators, it is common and important to have a small amount of indoor, climate controlled space to propagate plants in the spring, as well as maintain Mother plants during the winter. It would be helpful to include explicit permissions that an Outdoor cultivator may maintain nursery/vegetative space that is indoors / under artificial lighting within the confines of their secure location.

Thank you!
Brandon Pollock

First, thank you to the CCB and all related folks in the sub committees for their hard work getting the Vermont cannabis industry off the ground.

To provide context, my business partner and I (both queer women) own, and hope to operate, Siren Tea, LLC. Our goal is to be licensed as a tier 2 indoor cultivator as well as a tier 2 manufacturer and we will be running our business on land that we will also be living on, and farming, with our families.

I understand the objective of getting as many legacy growers into the regulated market as possible by lowering the barriers of entry in the licensing application and regulatory processes. I also understand that, in statute, â€œcraft cultivatorâ€ is defined as a tier 1 cultivator. However, I think it needs to be understood that, unless youâ€™re coming from the illicit market, having already paid for your grow space and your equipment without the additional fees and expenses associated with the legal market, starting a legal indoor cannabis business as a tier 1 cultivator is not a profit making enterprise. Certainly not profit enough to be considered full time employment. With the current legislative definition of â€œcanopyâ€, tier 2 indoor cultivation is the minimum square footage needed to run a profitable business. Tier 2 cultivation is still a business that can be run by one person, two at most, with additional part time or seasonal labor for trimming. Tier 2 is still, very much, a small cultivator.
Additionally, whether using the interchangeable terms â€œlegacy growerâ€/â€œcraft cultivatorâ€/â€œtier 1 cultivatorâ€ or even â€œapplicant impacted by cannabis prohibitionâ€, given the lack of racial diversity in Vermont, you are generally speaking about one group of people, white men. Statistically speaking, your diversity applicants (BIPOC folks and women), are going to be entering the cannabis industry for the first time with the roll out of legal licensing, nearly guaranteeing diversity applicants will have to apply at tier 2 or above.
With all this being said, and given the other goal of Act 164 to create a diverse and inclusive industry, I suggest including tier 2 cultivators in the licensing and regulatory exemptions, to make a fair and equitable market place for all small cultivators, not just the legacy growers who already have a significant head start in their start up costs, customer base, genetics, etc.

My second comment is in regards to specific licensing requirements. Iâ€™ll use the requirement for liability insurance or an escrow account as an example. I think this is a valid and important aspect of running a business, especially in the cannabis industry. However, this becomes a â€œcart before the horseâ€ scenario. In order to secure a bank account (Iâ€™ve checked with VSECU), funding (which would need to go in the bank account), insurance, or almost any other essential component of starting a business, we must FIRST have a state issued license. Therefore, requiring any of these things in order to get a license becomes impossible or nearly impossible. In the case of escrow (in lieu of insurance, pre-license) you would need a significant amount of personal capital to meet the license requirement since both outside funding and insurance wouldnâ€™t be available pre-license. Expecting large sums of capital be available before licenses are issued is a significant barrier to entry that is far greater for diversity applicants, much more so than for white male legacy growers who have been benefiting from the illegal market, systemic racism, and systemic sexism.
As it is, without even going into the insurance/escrow issue, for Siren Tea to get licensed, we are having to find alternative funding to purchase land, so we can give a physical location for our license application, so we can get our license, so we can then apply for more funding to build our cultivation space. The time that all takes (if we can even find people to invest in us before weâ€™re licensed), plus the time it will take to grow out the bases of our genetics from seed (because we are not legacy growers with genetics on hand), means that we will not have branded products in stores until summer of 2023 at the earliest.

As a solution, I suggest a two part licensing system, in which, most everything goes on your initial application, or â€œpreliminary licenseâ€, other than the factors you canâ€™t perform without a license, and that we sign that we understand that in 6 months (for example) we will be subject to an inspection and that weâ€™ll need to provide proof that weâ€™ve taken care of the things that required the licensing (insurance, bank account, etc) or our license will be revoked. Naturally this would only be necessary for anyone getting their first license, not for renewal, in which case you should have proof

that you still have all of the requirements in place from the initial licensing process.

I hope these comments make sense and thank you so much for your time and effort.
All the best,
Tay Margison
Siren Tea, LLC

To The Members of The Cannabis Control Board,

Iâ€™d like to begin with a word of gratitude for your tireless work with respect to Vermontâ€™s implementing a system of regulation for the sale of recreational cannabis. Your commitment to the

concerns of our stateâ€™s cannabis community and your willingness to work with us, as opposed to ruling by decree, are the building blocks of the kind of collaborative relationship that is crucial for the sustained success of this industry. With that spirit of partnership in mind, Iâ€™d like to take this

opportunity to comment on Rules 1-5 as they exist at this time.

General Notes:

Total Tax- At a total of 21%, a tax of this magnitude has the potential to be a boon to the very black market that legalized cannabis is designed to eliminate. In order to ensure that even the smallest businesses have the chance to survive and thrive, and to incentivize consumer participation in the legal marketplace, a lower rate, one on par with alcohol (11%) for example, offers a far more sustainable path forward.

60% Cap On Concentrates- If these Rules are truly constructed to effectively eliminate the black market production and sale of cannabis products, a cap this stringent is not just self-defeating, itâ€™s decidedly counterproductive. Given the growing popularity of oils and concentrates, a cap

of this nature would essentially serve as the death blow to a legally regulated alternative. The entire point of producing and consuming concentrates is inexorably linked to their purity (often above 90%). To hamstring legal cannabis purveyors with this kind of limit would not only extend the existence of the black market, it would likely result in its expansion.

1 Ounce Limit- While this proposal does not provoke the level of alarm as those analyzed above, it does seem rather arbitrary and needlessly prohibitive. Once more, a limit like this one

could be a lifeline for the black market. And while I understand that matters of public safety require

some kind of limit on the quantity of cannabis a single customer is permitted to purchase, a single ounce is simply too low.

Categorical Questions & Critiques:

1.7- License Application Requirements for Retailers- For clarityâ€™s sake, Iâ€™m curious about the parameters of this requirement. Are retailers only required to provide this list during the application process, or is this a quarterly/yearly submission? Considering the sheer amount of labor and time that operating a successful retail business demands, I suggest that this list be submitted only during periods of application or renewal.

2.2.2- Insurance- Given the considerable amount of revenue that retail businesses are already required to contribute to insurance of one kind or another (standard liability among them), I suggest avoiding the product liability category entirely if possible. Not only could this requirement invite undue complications and superfluous lawsuits, but if Vermont sincerely wants its cannabis market to be a bastion of small business, a financial obstacle like this could prove a considerable roadblock to that admirable ambition.

2.2.7- Transportation of Cannabis and Cannabis Products-

(e) i.- Do the regulations pertaining to visibility apply to living plants?

(ii.) Given the ambiguity attached to this statute, I canâ€™t help but be concerned with how this regulation might be abused by selective enforcement. Taking into account the Control Boardâ€™s

commitment to social and racial equity, in its present form, this regulation has the potential to be a marked detriment to that mission.

(j) - When one considers the fact that the stateâ€™s Inventory Tracking System is designed to eliminate the possibility of products ending up in prohibited places, the rigorous demands of much of this subsection read like theatrical lip-service aimed at misinformed opponents of legalized cannabis. If licensed cultivators and retail establishments are in compliance with the stateâ€™s own Inventory Tracking System, much of this section is rendered redundant, unnecessary, and unenforceable.

(k)- If one takes into account the fact that any above-board business-to-business transaction is already conducted through the exchange of invoices and mutually agreed delivery schedules, this demand in an overbearing burden to businesses that are already required to do so much in compliance with product-tracking guidelines.

(l)- Operating under the assumption that the Inventory Tracking System employed by the state will be both effective and efficient, this subsection is a sufficient form of record that would render irrelevant the sections discussed above.

(m)- While I wholeheartedly endorse the practice of thoroughly checking incoming orders against an invoice, the window of time articulated here (â€œthe same day it is receivedâ€) may not be wide enough in certain circumstances. 24 hours seems like a much more reasonable interval considering that some orders might not arrive until the end of a business day.

(r)- Not only does this requirement rely on an arbitrary quantity, it also assumes that a criminal actor is less likely to rob a vehicle transporting 19.5 pounds than they are one carrying 20. Furthermore, it assumes that said criminal actor would not simply abscond with the entirety of the transport regardless of the manner in which it is secured. Finally, the financial burden inherent to purchasing this kind of hardware has the potential to penalize any small business unable to

comply, thus forcing it to compete against more financially-equipped institutions at a considerable disadvantage.

2.2.12- Audience Composition Presumptions for Advertising-

(c)- This regulation is simply untenable. As it stands at present, it would compel any retail establishment that does not wish to have tinted windows or curtains to design their interior in the

most spartan manner possible in order to remain in compliance. Given that most of these establishments would rather have a compelling space inside their doors, one that allows them to

fulfill their full potential, the end result would be a rash of seedy looking storefronts that have been modified on state order, against the wishes, but with the money, of their proprietors. Furthermore, it suggests that cannabis, a product that the state has decided is worthy of legalization, is somehow more dangerous than alcohol or tobacco.

2.5.3- Energy Standards For Buildings- Given all of the costs that small cultivators are compelled to incur in order to comply with so many of these regulations, forcing them to observe these standards from the outset of their operation would be an outsized obstacle to their success. I do absolutely agree that Vermontâ€™s cannabis industry should be as progressive as possible with respect to energy conservation, however I think it would be more equitable to provide a timeline in which all cultivators are required to meet the standard rather than impose that they do so immediately.

2.5.6- Energy Usage Reporting and Reduction Efforts-

(a) - This is asking a lot of legacy cultivators attempting to participate in a sanctioned system for the first time. The ambiguity of the language only compounds that hindrance. With some guidance, the regulationâ€™s objective might be obtainable. As it stands now, however, it is nothing more than an undue stress on an already fragile enterprise. Furthermore, this is yet another example of regulatory overreach that could subvert the stated mission of social and racial equity.

(b)- When one takes into account all of the time and energy it requires to maintain all of the equipment included in this statute, the obligation to additionally compose a record of that

maintenance results in an undue burden on an already time-pressed cultivator. Not to mention that cultivators not taking proper care of their equipment, would not last long in a competitive market.

(c)- As I stated in the previous subsection, this statute smacks of overbearing redundancy. An opportunity to maximize a cultivatorâ€™s efficiency, while also minimizing cost, is one that

any successful cultivator will take. To demand that each and every cultivator, regardless of size, provide an annual report on the ways in which theyâ€™re completing basic operations, is wildly

unnecessary.

2.8.1- Buffer Zones- In its present language, this statute is confusing. In order to ensure that every potential retail establishment is located in a sanctioned zone, the regulation requires more clarity.

2.8.2- Retail Security-

(d)- The interval of 90 days is unnecessarily long, and would result in a undue financial strain on small businesses as the majority of surveillance services require premium payments to

retain footage for periods that surpass 30 days. One can assume that if something were to occur inside of a licensed establishment that would require the review of video footage, 30 days of retention is more than enough time to download the footage in question and save it for review.

2.8.3- Age Verification- Not only is this law a burden to an establishmentâ€™s ability to conduct business with some manner of efficiency, but, once again, it suggests that cannabis is

somehow more dangerous than alcohol and tobacco. According to Vermontâ€™s DLC regulations, a bar is only

required to verify a patronâ€™s age a single time. The same goes for any business that sells tobacco or other age-restricted items. To compel cannabis retailers to do more, without any stated rationale, is gratuitous.

Tito Bern

1/3/2022

VT Cannabis Equity Coalition

Comments to the CCB on Proposed Rule 1

Rule 1:

Section 1.3 Section 3: License Tiers

(c) Mixed-Use Cultivation Licenses: mixed-use cultivation license holders are permitted to have a maximum of 1,000 square feet of indoor cultivation plant canopy and grow up to 50 plants in outdoor cultivation at the same location.

Comments:

Our coalition has provided testimony in oral and written form with respect to tiers of license and differentiating between indoor, outdoor, and mixed light production. The proposed tiers offered here -

as they are shown - are fundamentally inequitable in that they allow for far greater production capacity with an indoor cultivation license than could be generated by any of the proposed outdoor cultivation tiers; and the tiers themselves do not correspond to one another at a reasonable ratio of production. Furthermore, the lowest tier of outdoor production is not substantial enough to meet the needs of producers, and the highest indoor production tier being recommended is at 250% of our coalitionâ€™s recommendation. Based on conversations we have heard at CCB meetings - we also understand that there are changes to these rules which will be recommended by the CCB: only allowing up to 10,000 sq ft of indoor production (tier 4), allowing up to 125 plants as opposed to 1,000 sq feet for the small cultivator tier. If this is the case, we hope to see them reflected in the Rules. Our coalition would like to see a â€œmixed lightâ€ tier of cultivation similar to most other Statesâ€™ recreational cannabis regulations, this is increasingly defined and differentiated from indoor cultivation by watt / square foot. The following are from our recommendations to the CCB:

a. Differentiate caps on production and scales of license for indoor, mixedlight, and outdoor at a scale of approximately 1:2:4 (indoor: mixed-light: outdoor);

i. Outdoor and indoor production differ substantially in production ability (seasonal as opposed to year-round production), in vulnerability to crop loss, and in impact with respect to water, electrical, facilities, visual and more; â€¦

ii. Mixed light shall remain in the scope of artificial lighting. The use of â€œlight deprivationâ€ shall not be considered mixed light;

iii. Entities can purchase one of each type of license:

1. E.g. A business can purchase a cultivation license for indoor, outdoor, and / or mixed light cultivation;

iv. It is notable that this ratio takes into account the amount of space and how it can be used over the course of a year in terms of accounting for equity of available space - but it does not account for disparities in crop loss which disproportionately affect outdoor growers based on pest, disease, weather, etc.. We have spoken with outdoor growers who have suggested an even greater allocation of space for outdoor production compared with indoor production to account for these vulnerabilities;

â€¦

a. Implement a tiered permit system allowing at maximum;

i. 1 acre (app. 43,500 sqft.) for outdoors;

ii. 22,000 sqft. for mixed-light;

iii. 10,000 sqft. for indoors;

b. And at the smallest tier, the â€œCraft Tierâ€:

i. 4,000 sqft. for outdoors;

ii. 2,000 sqft. for mixed-light;

iii. 1,000 sqft. for indoors;

â€¦

h. Develop Non-Craft Cultivation Tier;

i. Outdoor Cultivation Type 1, 10,000 sqft. â€“ $2,500;

ii. Outdoor Cultivation Type 2, 20,000 sqft. â€“ $5,000;

iii. Outdoor Cultivation Type 3, 40,000 sqft. â€“ $15,000;

iv. Mixed-Light Cultivation Type 1, 5,000 sqft. â€“ $2,500;

v. Mixed-Light Cultivation Type 2, 10,000 sqft. â€“ $5,000;

vi. Mixed-Light Cultivation Type 3, 20,000 sqft. â€“ $15,000;

vii. Indoor Cultivation Type 1, 2,500 sqft. â€“ $2,500;

viii. Indoor Cultivation Type 2, 5,000 sqft. â€“ $5,000;

ix. Indoor Cultivation Type 3, 10,000 sqft. â€“ $15,000;

The â€œmixed-useâ€ cultivation license proposed is pointing towards an important concept and recognition - and the realities of people starting their plants from seed or clone, and carrying over â€œmotherâ€ plants in indoor spaces, must be accounted for in general with outdoor cultivation licensees. Given testimony we have heard personally and before the CCB by cultivators, and consistent with the recommendations cited above, we recommend that the mixed tier allow for an entity to combine any tier of indoor along with any tier of outdoor cultivation license. We do not believe that the scales of production allowed are significant enough to negatively affect market equity. We recommend some of the particulars related to cultivation be clarified in rules related to outdoor cultivation: allowance for starting plants and seedlings in an indoor environment (as most farmers do), allowance to carry over â€œmother plantsâ€, allowance to start with a greater number of plants than the number ultimately allowed for production / to be planted in the ground (for example, starting a greater number

from seed or clone than will ultimately be planted, as many will be selected for culling), etc. If S.188 is successful for example, how do these plants they may be selling to other cultivators count in relationship to their allowed plant count or canopy square footage?

Direct Sales for Producers: Any type of retail license with allowable direct sales of product principally produced by the cultivator at a lesser cost and regulatory burden than a full retail license is critical to small business viability, consumer access, bringing the current cannabis economy into the regulated market, and market equity. From on-site retail, to delivery or pick up CSA or Buying Clubs, to online ordering and pickup or delivery; there are many options with a low bar of risk from a regulatory perspective, and high potential for successfully meeting the goals listed previously. Cultivators are already required to participate in seed to sale tracking, will already need to store product, sell product, and meet the security requirements to do so. Articulating scale appropriate regulations for the direct sale of principally product by particular scales and types of producers is a very reasonable and necessary addition to the current CCB Rules.

One other activities which may not have a home in licensure:

Processing - a company which cultivators contract with to process fresh or dried cannabis into saleable product (ie. â€œtrimmingâ€). This could help to relieve the burden of cultivators needing to hire and manage the applications for seasonal workers. This activity should remain allowable for cultivators as well.

Storage - security needs on a cultivation site, for a wholesaler, for a retailer, etc. could be substantially lessened if there were available, secure, storage facilities.

Drying and Curing - a company which cultivators contract with in order to provide the service of drying and curing cannabis for cultivators. These activities should remain allowable for cultivators as well.

There may be facilities which want to offer all of these types of service combined - and who knows, maybe even a commercial kitchen for product manufacturing on-site. What license / s would be needed to offer such services?

1.4 Section 4: License Application Requirements for All License Types

1.4.5

(a) documentation of general liability and product liability insurance coverage, or an approved alternative, at levels enumerated in Board Rule 2.2.2;

(b) documentation of bond or escrow for cessation of operation of a Cannabis Establishment

costs in an amount to be determined by Board guidance;

Comments:

a) Recognizing these are commonly required or recommended for many for types of business, what is the accessibility and affordability of this type of insurance coverage for different types of cannabis establishment given the federal prohibition on cannabis?

b) This requirement - and consequent requirements in Rule 1 - is concerning in its ambiguity and nature. We ask that the Board clarify why this requirement exists, and how the amount will be determined. It will be challenging to afford entry into this industry to begin with - what costs does the Board consider imminent and / or concerning upon the cessation of operation of a Cannabis Establishment? Are these concerns for all scales and types of establishment - or particular scales and types?

General Comments and Recommendations: From operating plans, to record checks, to compliance and management, and taxation and banking - requirements to apply for a license are substantial and substantially more than, and different from, what is required to start most businesses (in particular small farm businesses). Given this, we recommend that the Board offer substantial outreach, guidance, technical assistance, and an ongoing license application process which is flexible given the challenging and expensive nature of the application process itself.

1.4.6 Location Information

General Comments: Depending on the type of establishment, particular business owners may or may not want their location information available to the public. How does the CCB and State plan on making information about different types of establishments - which the establishments provide - available to the public?

1.4.9 Plans Related to Positive Impact Criteria

(b) Applicants that are not testing laboratories must show plans for completion of the criteria in subsection (c) and (d) to the following extent:

Comments:

Why are testing laboratories exempt from meeting the positive impact criteria? Without further explanation, our coalition strongly feels that testing laboratories should be required to meet the same â€œpositive impact criteriaâ€ standards as other cannabis establishments.

(b) ii. All applicants that plan to hire more than 10 employees must show plans to satisfy at least 3 criteria from subsections (c) and (d).

Comments:

It is not clear in (b)ii whether these entities are required to satisfy 3 criteria from each section, or 3 criteria in total. If it is 3 in total, we recommend that it specifically be stated that there must be at least 1 from each section (1 from c, 1 from d) as well as 1 more from either section. It is important that businesses of this scale meet both human and environmental needs.

(d) v. Contribute to anti-pollution efforts, which could include but is not limited to the use of carbon off-sets.

Comments:

Carbon off-sets, and carbon markets more broadly, are rarely legitimate means of reducing pollution and equitably affecting climate change. Pollution must be reduced at its source and we must also increase carbon positive activities such as particular forms of agroecology and regenerative agriculture.

Allowing pollution to continue in exchange for improved outcomes in other areas - carbon off-sets and markets, â€œnet zeroâ€ - does not lead towards our climate change or pollution mitigation goals, rather it perpetuates the problems of pollution and inequity we face.

1.5 Section 5: License Application Reqs for Cultivators

1.5.1 (c) The location for outdoor cultivators must comply with Rule 2.4.4 regarding visibility from a public road.

Comments:

We recognize that this is a statutory requirement - and request that the CCB seek an amendment removing this statute. Banning visibility from a public road disproportionately affects cultivators with smaller pieces of land, in more urban and village settings, and with access to less capital and land in general. Currently, hemp is cultivated throughout VT within view of public roads, as are countless other crops. We suggest that the visibility of the cultivation site be at the discretion of cultivators.

1.5.2: Water and Wastewater Requirements

General water supply and municipal wastewater requirements:

(a) Cultivators on a municipal water supply must submit a letter from the water utility certifying the utilityâ€™s capacity to provide a sufficient quantity of water to the applicant at the physical site of operation.

(b) Cultivators using municipal wastewater, or other offsite wastewater system, must submit a letter certifying the wastewater systemâ€™s capacity to accept the quantity and anticipated strength of wastewater from the physical site of operation.

Comments:

We do not have a specific recommendation, rather a question as to how burdensome this requirement

may be depending on the local utility certifier (whether they are timely in responding, how they exercise their discretion, etc.), and whether this also leaves room for further discrimation against cannabis establishments in general, as well as communities already facing bias and systemic discrimination?

1.8: License Application Requirements for Testing Labs

At its discretion, the Board may waive or reduce licensing requirements, including fees, for a laboratory that has a current certification under the Cannabis Quality Control Program established by the Vermont Agency of Agriculture, Food and Markets under 6 V.S.A. Â§ 567

Comments:

We would like clarity from the Board related to these unique privileges being proposed for Testing Laboratories: why would the licensing requirements or fees be waived? Have the fees potentially already been paid to another State program (eg. Hemp)?

1.10: Section 10: License Application Acceptance Periods

(d) Other than legislatively mandated application acceptance periods, the Board may open application periods at their discretion, subject to the following limitations:

i. the Board shall accept applications for license types, other than cultivation license types, for no less than 30 days each calendar year; and

ii. the Board shall accept applications for Tiers 1 and 2 of both indoor and outdoor cultivation license types for no less than 30 days each calendar year.

Comments:

Recognizing that the legislatively mandated application acceptance periods are only defined for the initial application period - and thereafter by the CCB; we feel that only assuring a 30 day period every year for accepting licenses is overly restrictive. Ideally, there would be an ongoing application period for

licenses. In particular, it is important to consider the particular times / seasons in which cultivation licenses are due for renewal and initial application. Outdoor cultivators in particular will need approval well before the dates currently in statute for the initial application period (earliest approval May 1) - at the latest by the end of January or early February in order to prepare for the season.

(d)ii: we interpret this to read that the CCB may choose to not allow for particular scales of cultivation license types in particular years. Given the scales of license allowed - we do not feel this is necessary. Does this apply to license renewals as well?

1.11 Section 11: Criminal Records and License Qualification Determinations

Comments:

We understand current statutory requirements of the Board related to background checks and the application process (Â§ 883. CRIMINAL BACKGROUND RECORD CHECKS; APPLICANTS). However, we continue to oppose these requirements, and feel that the CCB has defined an overly broad net of criminal history which would lead to â€œpresumptive disqualificationâ€. And although the CCB has left room for â€œovercoming presumptive disqualificationâ€, this process is fundamentally inverted: presuming guilt of someone with a past criminal history and asking them to effectively prove their innocence and the validity of their â€œrehabilitationâ€ to another government entity in order to run a legal business with substantial oversight and regulation.

1.16 Section 16: Cannabis Identification Cards

Comments:

As with Section 1.11, we are opposed to the background check requirements and overly broad net of criminal history which is referred to, and the general process by which people with particular criminal histories are presumed guilty and ineligible and asked to prove their rehabilitation. We also ask the CCB to recognize that much of what is normally left up to the discretion of a business - whom to hire, what

qualifies / disqualifies, etc. - is substantially overseen by the CCB and requires processes and cost like: employee applications, fingerprinting and background checks, fees, etc. This will be burdensome to potential employees and employers - and likely the CCB as well; and we urge the CCB to be as permissive, understanding, and supportive as it can be throughout this process. We appreciate the allowance of the employee to work once the application has been submitted (in statute) - and this at least relieves some of the challenges which could be faced by employers and employees, in particular related to seasonal employment.

Graham Unangst-Rufenacht

As a small farm hemp grower for the past three seasons here in Richmond VT, I feel the most beneficial licensing to a small outdoor grower would be a combination of the licenses being proposed - a grow license combined with a solventless processing license and the ability to create signature, small batch products for farm to sell either direct to consumer or through licensed retailers. This option empowers small farms to carry on the tradition of farming and creating a sustainable business. It builds community and instills quality and consistency, indicativeÂ of what Vermont is known for.Â

Jessica Sipe

Offering commentary and info in response to the questions raised at today's 1/24 Board meeting around equity, oversupply, non-contiguous areas, Act 250 constraints, and the overall outdoor tier structure.

Based on the equivalency in yield of 1,000 square feet of indoor cultivation to 125 plantsâ€”or 3,125 square feetâ€”of outdoor cultivation (per my earlier comments), I analyzed some numbers and offer the following input:

1. Indoor-outdoor equivalency is critical for equity at all tier levels, not just Tier 1; without it, the opportunity to make money will be limited mostly to those who already have a lot. An indoor 5,000-sqft grow can return over 300% ROI, but a 5,000-sqft outdoor returns 39% at best, which is not a viable proposition for small farmers given the inherent risks of farming. With equivalency applied, the return on outdoor increases to 210%, giving less-capitalized entities a meaningful opportunity to build a viable enterprise.

2. The current supply model overestimates outdoor yield/sqft by 300%; equivalency will equal the programâ€™s supply assumptions, not exceed them. The supply model behind the 10/15/21 report estimates outdoor yield at 36g/sqft when experience shows it to be no more than 12g/sqft. Equivalency will not create an oversupply; on the contrary, the programâ€™s supply assumptions would be

drastically incorrect without it.

3. Measure square feet of outdoor canopy in non-contiguous rows to accommodate microsite characteristics and encourage sustainable farming techniques. Otherwise growers will be incentivized to crowd their plants together, reducing yields and intensifying their use of water, fertilizers and pesticides.

4. Do not limit outdoor canopy size based on potential interactions with Act 250, which would unnecessarily constrain the benefits of outdoor production in pre-emption of another Agencyâ€™s authorities and discretion. Growers should be free to tailor their plans according to local implementation of Act 250 and their readiness to engage on such matters, particularly given the likelihood the regulations or the Act itself will change in the near future.

CONCLUSION: Keep it simpleâ€¦ 3 square feet outdoors = 1 square foot indoors. Plant counts are the ideal approach for all outdoor tiers, and itâ€™s critically important for the Tier 1 level given the 1000-sqft definition of â€œsmall cultivator.â€ But for all the other tiers itâ€™s probably simpler to go with the square-foot equivalent instead, and nothing in statute prevents the Board from establishing the higher outdoor tiers based on this 3:1 ratio (not even Act 250).

More background on #1-#4 follows below:

1. Equivalency is an equity issue at all tier levels, not just Tier 1.

Establishing appropriate equivalency is not only an equity issue for small cultivators, itâ€™s an equity issue at all tier levels because indoor cultivation requires so much more capital than outdoor.

In 100 days a 5,000-sqft indoor grow should be expected to produce 625 lbsâ€”80% in premium flower and 20% in biomass for extractionâ€”grossing approximately $437,500 on an operating expense of about $104,000, which is an ROI of 321%. So, if youâ€™ve got the capital to stand up a 5,000-sqft grow, the future is bright.

By contrast, if you donâ€™t have that kind of capital, then the adult-use market probably isnâ€™t for you without that 3:1 ratio. A 5,000-sqft outdoor grow, as Iâ€™ve commented previously, can be

expected to produce no more than 160 lbs of product per yearâ€”33% in premium flower and 67% in biomass for extractionâ€”grossing $64,000 on $46,000 of operating expense. Thatâ€™s a best-case scenario of 39% ROI, which is insufficient from a risk standpoint. In general, most farmers are unwilling or unable to take on the inherent risks of farming for returns so far below 100%, particularly small farms.

However, if that 5,000-sqft outdoor tier is adjusted to 15,000 sqft (or 625 plants), the gross goes up to $192,000 while the operating expense only increases to $61,825, for an ROI of 210%. Thatâ€™s a real proposition for small farmers. Thus, the application of an appropriate equivalency at all outdoor tiers is necessary for less-capitalized entities to build a viable enterprise with meaningful prospects for growth.

2. Equivalency will not lead to oversupply; on the contrary, the current supply model overestimates outdoor yield by 300% and equivalency will correct this.

The concerns that equivalency may cause oversupply in the market appear to be based on incorrect assumptions about outdoor yield. The supply model provided by the Boardâ€™s consultants estimates yield as 36 grams/sqft (see cell B213 of the â€œMarket Analysis Modelâ€ tab in the VSS spreadsheet used to produce the Boardâ€™s 10/15/2021 report), but based on 3 years of experience growing cannabis (hemp) at a commercial scale outdoors at varied locations in Vermont, a yield of no more than 12 grams/sqft can be expected

The 12g/sqft estimate is based on a minimum of 25 sqft per plant, a maximum yield of 1 pound (453.6g) per plant, and a crop loss rate of 33%, which is what a prudent Vermont grower should plan for (and mirrors Kyleâ€™s comment during the meeting estimating that 80 plants would be harvested from 125 planted). If equivalency is applied, this will increase outdoor productive capacity to comport with the supply assumptions informing the design of the overall program.

Also I reiterate that the possibility of exacerbating supply peaks is no cause for concern. Outdoor crops typically become ready for market in late November and early December, when the increase in supply meets increased demand by holiday shoppers and vacationers. And with a shelf-life of at least 12 months in proper storage, growers can delay or reduce their deliveries in anticipation of higher prices as supply tapers off.

3. Measure square feet of outdoor canopy in non-contiguous rows to accommodate microsite characteristics and encourage sustainable farming techniques.

Iâ€™ve commented at length in previous submissions about the need for growers to have flexibility to adjust spacings according to microsite characteristics and sustainable farming practices, such as

interplanting, cover-cropping, integrated pest management and retention of native vegetation for pollinator and predator habitat.

Measuring outdoor canopy size based on plant count is one way to accommodate this. But if plant count is thought to present enforcement challenges at higher numbers, square feet can be measured instead by taking the linear sum of the rows and multiplying by 5 feet. This approximates the average diameter of a mature cannabis plant grown for flower production outdoors in Vermont, and thus represents the minimum spacing between plants so as not to restrict growth and yield. Therefore this approach does not result in overproduction, and it is easy to measure.

4. Do not limit outdoor canopy size based on potential interactions with Act 250, which would unnecessarily constrain the benefits of outdoor production in pre-emption of another agencyâ€™s regulatory authority and discretion.

While specifying outdoor cultivation size limits in terms of plant count or canopy square feet is appropriate to the objectives of the adult-use program, it is understood that Act 250 and other land-use regulations are based on parcel size and other generalized land attributes as needed for the purposes of those other authorities.

However, there is no inherent conflict between the two regulatory schemes, nor is there a statutory requirement to limit outdoor cultivation to 37,500 square feet or any other pre-determined parcel size. The broad support expressed in todayâ€™s Board meeting for licensing of non-contiguous areas exemplifies this.

In the absence of any inherent conflict or statutory mandate, it is incumbent upon each agency to develop the regulations that best implement its own authorities. Businesses of all kinds are responsible for complying with various regulatory requirements established by diverse agencies to meet a broad range of statutory purposes: the larger the enterprise, the greater the burden of compliance; itâ€™s just the cost of doing business. CCB can be helpful to licensees by advising them that exceeding 37,500 square feet may trigger additional burdens for Act 250 compliance, but it can and should be left to each individual business to decide whether itâ€™s worth the trouble. The objectives and legislative intent of the adult-use program are not served by pre-empting another agencyâ€™s authority to curtail outdoor cultivation based on policies that are outside of CCBâ€™s authority, and which may soon change in any case.

Herrick Fox

Thank you for this opportunity to contribute

Plant count vs. Canopy

I agree with the point made about R &D supporting Canopy. I just want to add the diversity of the state in its ecology. North to south combined with altitude variations yields a different crop. Therefor the artist requires discretion with plant density or Canopy.

When to change tiers/windows of application/renewals

From my perspective of outdoor,

First year aside, it will take movement to create fluidity

Change of tier should only be allowed at renewal period. Nobody gets 30 ish percent into a growing season and says â€œoh I need 250% more high quality product.â€ ie. 1000 sqft to 2500 sqft

What I think I heard today was here is my 1000 sqft license and here is a launch ready 2500 sqft request in case enforcement shows up and sees I added another 1500 sqft, which would play out to harvest based on the proposed windows of submission and due process times. No enforcement, means 2500 sqft yield with a 1000sqft license and a quiet withdrawal of 2500 sqft amendment. So change of teir at renewal.

The windows would seem to me to be a period of time bracketing renewals or new apps. This way all plays can count on daylight and work load.

If this point has been brought up I want to re enforce it,

1000sqft outdoor license should come with the permission to sell retail on licensed premises. It is allowed in the alcohol industry as a class four license for distilleryâ€™s and is in the spirit of craft Vermont.

Next point,

I have not seen any information on being able to get a permit to retail at a farmers market. Again the alcohol industry has a methodology for permission to sell at farmerâ€™s market.

Mr. Pepper made a statement that it was believed that most of the cannabis economy would revolve around tourism. I concur, in a belief that farmerâ€™s markets are an avenue of tourism.

Thank you everyone

Charles Commiskey

1.Both rules reference an Inventory Tracking System:

Does the system exist, will it be provided to small growers, what are the system requirements to support it at the cultivation site level, will it support the integration of test results and inventory data?

2.I could not find details pertaining to specific testing requirements :

Are there testing requirements for Tiers 1 and 2 cultivators, when durng the cultivation process do they apply, and will the CCB establish guidelines for the cost of testing at independent labs?
Joseph Carter

- 1.4
    - We need to add a general look-through provision for persons who are not natural persons (i.e., entities). I think perhaps this is implied in parts of 1.4.1 and elsewhere, but it is definitely not explicit.
    - Look-through will be important for 1.4.1, 1.4.2, and 1.4.3.
    - For example, as currently drafted, a control person could avoid getting a background check in 1.4.2 by simply inserting an LLC between them and the licensee. That can't be what was intended, so I think we need some drafting revisions.
- 1.4.1 Operating Plans
    - One thing we don't address is the influence of non-controlling persons. Specifically, I'm thinking about a potential high-flying cannabis investor who takes a 49% interest in many different licensees. Do we care about this theoretical scenario?
    - Perhaps 1.4.1.(i) covers us here, since we ask for documentation of all sources of capital. CCB might notice if the same name keeps popping up. But then the problem is that you'd still need a general look-through provision because otherwise the same high-flying investor could structure his/her minority investments through LLCs with different names for different licensees.
- 1.4.3 Financiers

    - I think we should add an explicit exception for traditional lenders who offer traditional financing. Specifically, I mean banks and credit unions offering standard debt lending.

    - But, of course, we want to limit that exception. Don't want to open a door for "shadow equity" through structured hybrid debt.

- 1.7

    - Seems odd to me that Manufacturers, Retailers, and Labs don't need to submit diagrams of their facilities at all. Cultivators do, but the other types of licensees don't?

    - In alcohol, all licensees need to submit diagrams. Distillers, Brewers, bars/restaurants, you name it. Pretty standard.

- 1.11.2(e)

    - We may want to exclude speeding violations from this provision. In Vermont, certain speeding violations can count as misdemeanors.

- 1.16.1

    - Another section that would benefit from a general look-through provision.

- 1.16.7 Identification Card Renewal

    - Slight drafting problem: In (c), we specify that if you don't get renewed, you can no longer work at a Cannabis Establishment. But, in the overall section, we never specify in the first place that you can't work in a Cannabis Establishment if you don't get a license. Just a minor drafting revision needed somewhere.

- Rule 1 overall doesn't seem to enact any requirements for Wholesalers. Was this missed? Or intentional?

- 2.1.3(a)

    - In defining a Board Designee I think we want to say that it can be an "employee or contractor" of the Board, rather than just "employee" as currently drafted.

- 2.1.3(c)

    - Why are we saying 180 days or more? That seems very high. We could consider 30 days or more, or even just 1 day or more (i.e., any duration whatsoever). Right now, if someone has a greenhouse that they only use for 179 days per year, it doesn't officially count as a greenhouse. That seems odd.

- 2.2.1 Business Records

    - In 2.2.1.(g) we require visitor logs for all licensees, but 2.8.3(e) and 2.8.3(f) seem to forbid visitor logs in retail establishments.

- 2.2.4(e)
    - So we're not sharing responsibility with the other agencies? Isn't that weird? Like, fire safety is definitely the domain of fire marshals, but we're saying it's only our domain?
- 2.2.5(b)
    - Requires the first six for new hires in retail, before they've done full training. That's smart. But, we should also include xi Preventing Sale of Cannabis to Minors in there too, and make it 7 items.
- 2.2.6(c)
    - Requires licensees to reconcile inventory every month. Great. But, it doesn't specify how soon reconciliation must happen. For example, we could require that reconciliation must happen every month, and it must be within the first 15 days of the following month.
- 2.2.7(e)
    - Why require that vehicles be registered in Vermont? This seems unfair, for example to a college student who lawfully retains out-of-state registration on their vehicle and could be working at a licensee.
- 2.2.7(l)
    - What does it mean to "immediately adjust" inventory records? Perhaps we should define this more clearly, for example saying that the records must be updated by the end of that day. (Or if we want it more tight, within the next hour, etc.)
- 2.2.18 Co-Location
    - David shared the alternate language under consideration, thank you.
    - I recommend that we *do* allow shared use of equipment.
    - I recommend that we *do not* require co-locating establishments to limit their total size to the Tier 6 limit.
    - Discussion: I understand a general fear of "big could be bad for Vermont" and assume that's where this suggestion arose. But, I don't see any good rationale for limiting the total size of co-located spaces as long as the individual licensees at those spaces already adhere to Tier limits. If we have a massive Tier 6 facility who has more space than they're allowed to use, and they want to sublet out the rest of their space to other smaller growers? And let the smaller growers use their fancy equipment? That could be really good for smaller growers!
    - Further discussion: If, despite that, we're still worried that some folks will just be too big and will dominate the market, then we could limit this in a different way. For example,

we could say that if co-locating, you can't have more than 1 licensee at the co-locating facility be Tier 5 or Tier 6. That way, you'd be limiting all the sublets to only smaller license tiers, while still allowing a big fish to sublet in the first place.

    - Further discussion: One thing to be cautious of here is that this is another opportunity for shady practices that could generate "shadow equity" again. So, for example, I think we want to explicitly require that co-locating landlords are only paid defined cash rent laid out in the lease, and not let them be paid variable amounts that are a function of the subletting tenant's sales, etc. We don't want a super-landlord who is functionally a super equity holder in all the subletting tenants' by sharing a stake in their profitability that's structured to evade the reporting requirements by making those payments appear to be rent.

- 2.3.2(c)
    - Might want to make an exception to the Over 21 rule for visitors when the visitors are family members of employees. For example, if a new parent wants to bring their newborn to work with them.

- 2.3.5 Cultivator Inspections
    - I think we want to say that the board *may* conduct annual inspections, not that the board *will* conduct annual inspections.
    - Also, I think we need additional specificity that says we might do more than one inspection per year. Otherwise, you can unintentionally encourage bad actors who have already had their annual inspection know that nobody is coming back again until next year.

- 2.3.9(b)(ii)
    - This is a lot of samples allowed! Right now, we're allowing every single employee to take home over an ounce every month. That seems high!

- 2.4.7 Outdoor Co-Location
    - I think this is a bad rule and should be eliminated. See earlier discussion on limiting co-location.

- 2.5.7 Indoor Co-Location
    - I think this is a bad rule and should be eliminated. See earlier discussion on limiting co-location.

- 2.6.2(ii)
    - I think we should say "time or time window" that the product will take effect. So, for example, the packaging can say: "Product may take effect between 30 and 60 minutes after consumption."

- 2.6.5(b)(ii)
    - Similar to the earlier comment on employee samples, I think this seems high.
- 2.8.1 Buffer Zones
    - As currently drafted, you could locate a Retail store right next to a school as long as they're "back-to-back" to each other. Because we're measuring by the public road, a back-to-back layout would mean that their fronts are on different roads and likely more than 500 feet as traveled on the road while you travel around the block…
- 2.8.7 Consumer Samples
    - We should add a provision requiring documentation of destruction if the samples are eventually destroyed (e.g., they eventually go stale and get replaced).

Sivan Cotel

1/3/2022

VT Cannabis Equity Coalition
Comments to the CCB on Proposed Rule 1

Rule 1:

Section 1.3 Section 3: License Tiers

(a) Outdoor Cultivation:

Tier	Max Sq Ft of Total Plant Canopy
1	1,000
2	2,500
3	5,000
4	10,000
5	20,000
6	37,500

(b) Indoor Cultivation:

Tier	Max Sq Ft of Total Plant Canopy
1	1,000
2	2,500
3	5,000
4	10,000
5	15,000
6	25,500

(c) Mixed-Use Cultivation Licenses: mixed-use cultivation license holders are permitted to have a maximum of 1,000 square feet of indoor cultivation plant canopy and grow up to 50 plants in outdoor cultivation at the same location.

Comments:
Our coalition has provided testimony in oral and written form with respect to tiers of license and differentiating between indoor, outdoor, and mixed light production. The proposed tiers offered here - as they are shown - are fundamentally inequitable in that they allow for far greater production capacity with an indoor cultivation license than could be generated by any of the

proposed outdoor cultivation tiers; and the tiers themselves do not correspond to one another at a reasonable ratio of production. Furthermore, the lowest tier of outdoor production is not substantial enough to meet the needs of producers, and the highest indoor production tier being recommended is at 250% of our coalition's recommendation. Based on conversations we have heard at CCB meetings - we also understand that there are changes to these rules which will be recommended by the CCB: only allowing up to 10,000 sq ft of indoor production (tier 4), allowing up to 125 plants as opposed to 1,000 sq feet for the small cultivator tier. If this is the case, we hope to see them reflected in the Rules. Our coalition would like to see a "mixed light" tier of cultivation similar to most other States' recreational cannabis regulations, this is increasingly defined and differentiated from indoor cultivation by watt / square foot. The following are from our recommendations to the CCB:

- a. Differentiate caps on production and scales of license for indoor, mixedlight, and outdoor at a scale of approximately 1:2:4 (indoor: mixed-light: outdoor);
    - i. Outdoor and indoor production differ substantially in production ability (seasonal as opposed to year-round production), in vulnerability to crop loss, and in impact with respect to water, electrical, facilities, visual and more; …
    - ii. Mixed light shall remain in the scope of artificial lighting. The use of "light deprivation" shall not be considered mixed light;
    - iii. Entities can purchase one of each type of license:
        - 1. E.g. A business can purchase a cultivation license for indoor, outdoor, and / or mixed light cultivation;
    - iv. It is notable that this ratio takes into account the amount of space and how it can be used over the course of a year in terms of accounting for equity of available space - but it does not account for disparities in crop loss which disproportionately affect outdoor growers based on pest, disease, weather, etc.. We have spoken with outdoor growers who have suggested an even greater allocation of space for outdoor production compared with indoor production to account for these vulnerabilities;

…

- a. Implement a tiered permit system allowing at maximum;
    - i. 1 acre (app. 43,500 sqft.) for outdoors;
    - ii. 22,000 sqft. for mixed-light;
    - iii. 10,000 sqft. for indoors;
- b. And at the smallest tier, the "Craft Tier":
    - i. 4,000 sqft. for outdoors;
    - ii. 2,000 sqft. for mixed-light;
    - iii. 1,000 sqft. for indoors;

…

h. Develop Non-Craft Cultivation Tier;

- i. Outdoor Cultivation Type 1, 10,000 sqft. – $2,500;
- ii. Outdoor Cultivation Type 2, 20,000 sqft. – $5,000;
- iii. Outdoor Cultivation Type 3, 40,000 sqft. – $15,000;
- iv. Mixed-Light Cultivation Type 1, 5,000 sqft. – $2,500;

v. Mixed-Light Cultivation Type 2, 10,000 sqft. – $5,000;
vi. Mixed-Light Cultivation Type 3, 20,000 sqft. – $15,000;
vii. Indoor Cultivation Type 1, 2,500 sqft. – $2,500;
viii. Indoor Cultivation Type 2, 5,000 sqft. – $5,000;
ix. Indoor Cultivation Type 3, 10,000 sqft. – $15,000;

The “mixed-use” cultivation license proposed is pointing towards an important concept and recognition - and the realities of people starting their plants from seed or clone, and carrying over “mother” plants in indoor spaces, must be accounted for in general with outdoor cultivation licensees. Given testimony we have heard personally and before the CCB by cultivators, and consistent with the recommendations cited above, we recommend that the mixed tier allow for an entity to combine any tier of indoor along with any tier of outdoor cultivation license. We do not believe that the scales of production allowed are significant enough to negatively affect market equity. We recommend some of the particulars related to cultivation be clarified in rules related to outdoor cultivation: allowance for starting plants and seedlings in an indoor environment (as most farmers do), allowance to carry over “mother plants”, allowance to start with a greater number of plants than the number ultimately allowed for production / to be planted in the ground (for example, starting a greater number from seed or clone than will ultimately be planted, as many will be selected for culling), etc. If S.188 is successful for example, how do these plants they may be selling to other cultivators count in relationship to their allowed plant count or canopy square footage?

Direct Sales for Producers: Any type of retail license with allowable direct sales of *product principally produced by the cultivator* at a lesser cost and regulatory burden than a full retail license is critical to small business viability, consumer access, bringing the current cannabis economy into the regulated market, and market equity. From on-site retail, to delivery or pick up CSA or Buying Clubs, to online ordering and pickup or delivery; there are many options with a low bar of risk from a regulatory perspective, and high potential for successfully meeting the goals listed previously. Cultivators are already required to participate in seed to sale tracking, will already need to store product, sell product, and meet the security requirements to do so. Articulating scale appropriate regulations for the direct sale of principally product by particular scales and types of producers is a very reasonable and necessary addition to the current CCB Rules.

One other activities which may not have a home in licensure:

- Processing - a company which cultivators contract with to process fresh or dried cannabis into saleable product (ie. “trimming”). This could help to relieve the burden of cultivators needing to hire and manage the applications for seasonal workers. This activity should remain allowable for cultivators as well.
- Storage - security needs on a cultivation site, for a wholesaler, for a retailer, etc. could be substantially lessened if there were available, secure, storage facilities.
- Drying and Curing - a company which cultivators contract with in order to provide the service of drying and curing cannabis for cultivators. These activities should remain allowable for cultivators as well.

- There may be facilities which want to offer all of these types of service combined - and who knows, maybe even a commercial kitchen for product manufacturing on-site. What license / s would be needed to offer such services?

1.4 Section 4: License Application Requirements for All License Types

1.4.5

(a) documentation of general liability and product liability insurance coverage, or an approved alternative, at levels enumerated in Board Rule 2.2.2;

(b) documentation of bond or escrow for cessation of operation of a Cannabis Establishment costs in an amount to be determined by Board guidance;

Comments:
a) Recognizing these are commonly required or recommended for many for types of business, what is the accessibility and affordability of this type of insurance coverage for different types of cannabis establishment given the federal prohibition on cannabis?
b) This requirement - and consequent requirements in Rule 1 - is concerning in its ambiguity and nature. We ask that the Board clarify why this requirement exists, and how the amount will be determined. It will be challenging to afford entry into this industry to begin with - what costs does the Board consider imminent and / or concerning upon the cessation of operation of a Cannabis Establishment? Are these concerns for all scales and types of establishment - or particular scales and types?

General Comments and Recommendations: From operating plans, to record checks, to compliance and management, and taxation and banking - requirements to apply for a license are substantial and substantially more than, and different from, what is required to start most businesses (in particular small farm businesses). Given this, we recommend that the Board offer substantial outreach, guidance, technical assistance, and an ongoing license application process which is flexible given the challenging and expensive nature of the application process itself.

1.4.6 Location Information

General Comments: Depending on the type of establishment, particular business owners may or may not want their location information available to the public. How does the CCB and State plan on making information about different types of establishments - which the establishments provide - available to the public?

1.4.9 Plans Related to Positive Impact Criteria

(b) Applicants that are not testing laboratories must show plans for completion of the criteria in subsection (c) and (d) to the following extent:

Comments:
Why are testing laboratories exempt from meeting the positive impact criteria? Without further explanation, our coalition strongly feels that testing laboratories should be required to meet the same "positive impact criteria" standards as other cannabis establishments.

(b) ii. All applicants that plan to hire more than 10 employees must show plans to satisfy at least 3 criteria from subsections (c) and (d).

Comments:
It is not clear in (b)ii whether these entities are required to satisfy 3 criteria from each section, or 3 criteria in total. If it is 3 in total, we recommend that it specifically be stated that there must be at least 1 from each section (1 from c, 1 from d) as well as 1 more from either section. It is important that businesses of this scale meet both human and environmental needs.

(d) v. Contribute to anti-pollution efforts, which could include but is not limited to the use of carbon off-sets.

Comments:
Carbon off-sets, and carbon markets more broadly, are rarely legitimate means of reducing pollution and equitably affecting climate change. Pollution must be reduced at its source and we must also increase carbon positive activities such as particular forms of agroecology and regenerative agriculture. Allowing pollution to continue in exchange for improved outcomes in other areas - carbon off-sets and markets, "net zero" - does not lead towards our climate change or pollution mitigation goals, rather it perpetuates the problems of pollution and inequity we face.

1.5 Section 5: License Application Reqs for Cultivators

1.5.1 (c) The location for outdoor cultivators must comply with Rule 2.4.4 regarding visibility from a public road.

Comments:
We recognize that this is a statutory requirement - and request that the CCB seek an amendment removing this statute. Banning visibility from a public road disproportionately affects cultivators with smaller pieces of land, in more urban and village settings, and with access to less capital and land in general. Currently, hemp is cultivated throughout VT within view of public roads, as are countless other crops. We suggest that the visibility of the cultivation site be at the discretion of cultivators.

1.5.2: Water and Wastewater Requirements

- *General water supply and municipal wastewater requirements:*

- *(a) Cultivators on a municipal water supply must submit a letter from the water utility certifying the utility's capacity to provide a sufficient quantity of water to the applicant at the physical site of operation.*
- *(b) Cultivators using municipal wastewater, or other offsite wastewater system, must submit a letter certifying the wastewater system's capacity to accept the quantity and anticipated strength of wastewater from the physical site of operation.*

Comments:
We do not have a specific recommendation, rather a question as to how burdensome this requirement may be depending on the local utility certifier (whether they are timely in responding, how they exercise their discretion, etc.), and whether this also leaves room for further discrimation against cannabis establishments in general, as well as communities already facing bias and systemic discrimination?

1.8: License Application Requirements for Testing Labs

- *At its discretion, the Board may waive or reduce licensing requirements, including fees, for a laboratory that has a current certification under the Cannabis Quality Control Program established by the Vermont Agency of Agriculture, Food and Markets under 6 V.S.A. § 567*

Comments:
We would like clarity from the Board related to these unique privileges being proposed for Testing Laboratories: why would the licensing requirements or fees be waived? Have the fees potentially already been paid to another State program (eg. Hemp)?

1.10: Section 10: License Application Acceptance Periods

- *(d) Other than legislatively mandated application acceptance periods, the Board may open application periods at their discretion, subject to the following limitations:*
    - *i. the Board shall accept applications for license types, other than cultivation license types, for no less than 30 days each calendar year; and*
    - *ii. the Board shall accept applications for Tiers 1 and 2 of both indoor and outdoor cultivation license types for no less than 30 days each calendar year.*

Comments:
Recognizing that the legislatively mandated application acceptance periods are only defined for the initial application period - and thereafter by the CCB; we feel that only assuring a 30 day period every year for accepting licenses is overly restrictive. Ideally, there would be an ongoing application period for licenses. In particular, it is important to consider the particular times / seasons in which cultivation licenses are due for renewal and initial application. Outdoor cultivators in particular will need approval well before the dates currently in statute for the initial application period (earliest approval May 1) - at the latest by the end of January or early February in order to prepare for the season.

(d)ii: we interpret this to read that the CCB may choose to not allow for particular scales of cultivation license types in particular years. Given the scales of license allowed - we do not feel this is necessary. Does this apply to license renewals as well?

1.11 Section 11: Criminal Records and License Qualification Determinations

Comments:
We understand current statutory requirements of the Board related to background checks and the application process (§ 883. CRIMINAL BACKGROUND RECORD CHECKS; APPLICANTS). However, we continue to oppose these requirements, and feel that the CCB has defined an overly broad net of criminal history which would lead to "presumptive disqualification". And although the CCB has left room for "overcoming presumptive disqualification", this process is fundamentally inverted: presuming guilt of someone with a past criminal history and asking them to effectively prove their innocence and the validity of their "rehabilitation" to another government entity in order to run a legal business with substantial oversight and regulation.

1.16 Section 16: Cannabis Identification Cards

Comments:
As with Section 1.11, we are opposed to the background check requirements and overly broad net of criminal history which is referred to, and the general process by which people with particular criminal histories are presumed guilty and ineligible and asked to prove their rehabilitation. We also ask the CCB to recognize that much of what is normally left up to the discretion of a business - whom to hire, what qualifies / disqualifies, etc. - is substantially overseen by the CCB and requires processes and cost like: employee applications, fingerprinting and background checks, fees, etc. This will be burdensome to potential employees and employers - and likely the CCB as well; and we urge the CCB to be as permissive, understanding, and supportive as it can be throughout this process. We appreciate the allowance of the employee to work once the application has been submitted (in statute) - and this at least relieves some of the challenges which could be faced by employers and employees, in particular related to seasonal employment.