

**POKAGON BAND OF POTAWATOMI INDIANS
CANNABIS REGULATORY COMMISSION
CANNABIS REGULATIONS**

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CHAPTER 1 GENERAL PROVISIONS

Section 1.01 Authority.

The Cannabis Regulatory Commission (“Commission”) approves these Regulations pursuant to Chapters 3 and 7 of the Act.

Section 1.02 Purpose.

The Commission developed, proposed, and promulgated these Regulations to:

- (a) protect the health, safety, and welfare in a manner substantively similar to State Law regarding Cannabis Related Business Activities;
- (b) align the Band’s regulatory and enforcement systems with the Guidance Priorities to ensure that no Cannabis Related Business Activities are permitted within the Reservation that could substantially depart from the Guidance Priorities; and
- (c) establish the framework pursuant to the Act for the conduct, regulation, and accountability of Cannabis Related Business Activities within the Reservation.

Section 1.03 Scope.

These Regulations shall apply to all Persons engaged in Cannabis Related Business Activities within the Reservation.

Section 1.04 Construction.

- (a) These Regulations, to the extent reasonable, shall be read and interpreted in a manner consistent with the Act, but in the event of any inconsistency, the Act shall control.
- (b) These Regulations, to the extent reasonable, shall be read and interpreted in a manner consistent with any Expedited Regulations, but in the event of any inconsistency, the Expedited Regulations shall control.
- (c) These Regulations shall be liberally construed in favor of the Band and are not intended to limit or repeal any Band power, authority, right, or immunity, including any possessed by the Commission or Tribal Police or any of their respective employees.
- (d) Nothing in these Regulations is intended to, nor shall waive any rights of the Band of any nature whatsoever reserved under any treaty or provided for under federal law.
- (e) Nothing in these Regulations is intended to, nor shall limit any rights, powers, or privileges retained by the Band under the Constitution or by law.

(f) Nothing in these Regulations is intended to, nor shall grant, expand, or confirm in any way whatsoever, the jurisdiction of any State, rather all State Law prohibitions, limitations and requirements which may be included under these Regulations, are adopted solely as a matter of Band law.

(g) Nothing in these Regulations is intended to, nor shall serve as a concession or admission of any nature whatsoever regarding the jurisdiction of any State or any burden arising from compliance with any State Law.

Section 1.05 Severability.

If a court of competent jurisdiction holds that any provision or application of these Regulations is invalid, such judgment shall not affect, impair, or invalidate the remainder of these Regulations, which shall continue in full force and effect.

Section 1.06 Effective Date.

Consistent with subsection 1.03(e) of the Act, these Regulations shall become effective on the date set forth in the Commission resolution that approves these Regulations.

Section 1.07 Definitions.

In addition to the definitions stated in Section 1.07 of the Act, capitalized terms in these Regulations shall have the meanings set forth below.

(a) “Act” means the Pokagon Band Cannabis Regulatory Act.

(b) “Active Ingredient” means all cannabinoids, including tetrahydrocannabinol (THC), cannabidiol (CBD), cannabinol (CBN) cannabigerol (CBG), tetrahydrocannabivarin (THCV), and all terpenes, including myrcene.

(c) “Applicant” means any Person who has applied for, or requested renewal of, any License.

(d) “Application” means the form through which an Applicant requests the issuance or renewal of any License.

(e) “Authorized Visitor” means a person who is twenty-one (21) years of age or older, including individuals providing trade or professional services who are not normally engaged in the operation of a Cannabis Facility or involved in Cannabis Related Business Activities, that:

(1) is not an individual that is required to have Cannabis Employee credentials under the Act; and

(2) while present in any Cannabis Facility, is reasonably monitored, logged in as a visitor, and escorted through any secure areas of a Cannabis Facility by a Cannabis Employee.

(f) “Band” means the Pokagon Band of Potawatomi Indians, a sovereign, federally recognized Indian tribe.

(g) “Band Citizen” means a duly enrolled member of the Band.

(h) “Band Owned” means that the entire ownership interest is held by the Band, any wholly owned instrumentality of the Band established under Band law, or any entity that is wholly owned by or through the Band or any instrumentality of the Band established under Band law.

(i) “Batch” means Cannabis or Cannabis Product of the same variety that has been processed together and exposed to substantially similar conditions throughout processing.

(j) “Cannabis” means any of the following:

- (1) a plant or part of the Cannabis plant, whether growing or not;
- (2) the seeds of the Cannabis plant;
- (3) the resin extracted from any part of the Cannabis plant;
- (4) a compound, manufacture, salt, derivative, mixture, extract, acid, isomer, salt of an isomer, or preparation of any of the above described in this subsection 1.07(i)(1)-(3);
- (5) a topical formulation, tincture, beverage, edible substance, or similar product containing Cannabis and other ingredients and that is intended for human consumption;
- (6) a product with a THC concentration of more than 0.3% on a dry-weight or per volume basis in the form in which it is intended for sale to a consumer;

Except for the resin extracted from any of the following, Cannabis shall not include any of the following:

- (1) the mature stalks of the Cannabis plant;
- (2) fiber produced from the mature stalks of the Cannabis plant;
- (3) oil or cake made from the seeds of the Cannabis plant;
- (4) a compound, manufacture, salt, derivative, mixture or preparation of the mature stalks of the Cannabis plant;
- (5) industrial hemp grown;
- (6) an ingredient combined with Cannabis to prepare topical or oral administrations, food, drink, or other products; or

(7) a drug for which an application filed in accordance with 21 USC 355 is approved by the Food and Drug Administration.

(k) “Cannabis Accessory” means any equipment, product, material, or combination of equipment, products, or materials, that is specifically designed for use in Cannabis Related Business Activities, or for ingesting, inhaling, or otherwise introducing Cannabis into the human body.

(l) “Cannabis Employee” means, except as otherwise provided in the Act, a person who is twenty-one (21) years of age or older performing work or service for compensation for a Cannabis Facility and includes salaried employees, hourly employees, contract employees, trainees, independent contractors, or any other person given any type of employee credentials or authorized access to the secured area of a Cannabis Facility. The term “Cannabis Employee” does not include any Authorized Visitor. The inclusion of any person in the definition of “Cannabis Employee” who otherwise would not be classified as an employee under applicable law relating to employee classification shall not render such person an employee for any other purpose or grant such person any right, benefit, or opportunity possessed by any employee.

(m) “Cannabis Employee Identification Card” means the identification card issued to a Licensee for a Cannabis Employee by the Commission with the unique number the Commission assigns to each Cannabis Employee.

(n) “Cannabis Employee Identification Number” means the unique number the Commission assigns to each Cannabis Employee.

(o) “Cannabis Facility” means any physical facility located on the Reservation that engages in any Cannabis Related Business Activities within the Reservation but excluding any physical facility at which no Cannabis or Cannabis Product is located.

(p) “Cannabis Facility License” means the License required to operate a Cannabis Facility within the Reservation, as described in Chapter 9 of the Act.

(q) “Cannabis Goods or Services” means any Cannabis, Cannabis Product, Cannabis Accessories, or Cannabis Related Business Activities.

(r) “Cannabis Product” means a topical formulation, tincture, beverage, edible substance, or similar product containing Cannabis and other ingredients and that is intended for human consumption, and the dried leaves, flowers, plant resin, or extract of the Cannabis plant, but not the stalks, and roots of the plant.

(s) “Cannabis Related Business Activities” means the planting, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, packaging, storing, transporting, exchanging, distributing, or selling of any Cannabis, including any Cannabis Product, or any Cannabis Accessories.

(t) “Cannabis Supplier” means any Person that engages in any Cannabis Related Business Activities within the Reservation with any business relationship with a Cannabis Facility, including supplying, transporting, or testing any Cannabis, Cannabis Product, or Cannabis Accessory. “Cannabis Supplier” does not include the Band or any Band Owned entity, or any Cannabis Facility.

(u) “Cannabis Supplier License” means the License required to operate as a Cannabis Supplier within the Reservation, as described in Chapter 10 of the Act.

(v) “Cannabis Tracking System” means the electronic seed-to-sale tracking and tracing system that captures and maintains records of Cannabis, Cannabis Products and Licensee activity in accordance with Chapter 7 of the Act.

(w) “Cannabis Transporter Vehicle” means any vehicle used by a Licensee to transport Cannabis or Cannabis Products.

(x) “Child-Resistant” means special packaging that is: (1) designed or constructed to be significantly difficult for children under five (5) years of age to open and not difficult for normal adults to use properly; (2) opaque so that the packaging does not allow the product to be seen without opening the packaging material; and (3) re-sealable for any product intended for more than a single use or containing multiple servings.

(y) “Code of Offenses” means the Band Code of Offenses.

(z) “Commission” means the Cannabis Regulatory Commission established under Section 2.01 of the Act.

(aa) “Commissioner” means a member of the Commission appointed by the Tribal Council under Section 2.07 of the Act.

(bb) “Compact” means any compact between the Band and another government or government subdivision or agency, including the State, concerning Cannabis.

(cc) “Completed Application” means the Commission has received all applicable Application form(s), all information, documents, and forms required under the Act, these Regulations, or by the Commission, and all required Application and license fees.

(dd) “Constitution” means the Band Constitution.

(ee) “Control Person” means any person who has the power to direct or cause direction of the management and policies of the business operations of a Cannabis Supplier as verified by the Cannabis Supplier’s ownership and organization structure described in the documents establishing the existence of the Cannabis Supplier and the designation of persons authorized to act on behalf of the Cannabis Supplier.

(1) A person shall be presumed to have control when such person owns shares of any corporation that is not a publicly traded corporation and such person owns, controls, or

holds the power to vote ten percent (10%) or more of the voting securities of the corporation.

(2) Control Persons include members of the board of directors, chief executive officer, chief operating officer, and any person with the responsibility and authority to manage the contract on behalf of the Cannabis Supplier with respect to the Cannabis Goods or Services being provided to a Cannabis Facility.

(ff) “Designated Consumption Area” means the area within the grounds of a retail Cannabis Facility that the Cannabis Facility has designated, and the Commission has approved, for the consumption of Cannabis or Cannabis Products by adults who are twenty-one (21) years of age and older.

(gg) “Enforcement Proceeding” means any proceeding initiated by the Commission against a Licensee, which involves limiting, revoking, terminating, conditioning, suspending, or restricting any License or to reprimand, warn, or fine a Licensee.

(hh) “Enforcement Hearing” means any hearing before the Commission to adjudicate a matter that is subject to an Enforcement Proceeding.

(ii) “Excluded Cannabis Employee List” means the list of persons who cannot be employed by a Cannabis Facility that is maintained by the Commission based on:

(1) the results of a criminal history background check conducted by a Cannabis Facility before hiring that person in accordance with subsection 11.01(a) of the Act; or

(2) an investigation conducted by the Commission under the Act concerning violations of the Act, these Regulations, or any Compact.

(jj) “Executive Director” means the person appointed to serve in the position established under Section 4.02 of the Act, who shall exercise the power and perform the duties specified in the Act.

(kk) “Fiscal Year” means the Band government fiscal year.

(ll) “General Counsel” means the Band Office of General Counsel.

(mm) “Guidance Priorities” means the priorities regarding federal Cannabis enforcement set forth in the U.S. Department of Justice memorandum dated August 29, 2013 from Deputy Attorney General James Cole titled “Guidance Regarding Marijuana Enforcement” and the U.S. Department of Justice memorandum dated October 28, 2014 from Director Monty Wilkinson titled “Policy Statement Regarding Marijuana Issues in Indiana Country” (notwithstanding the rescission of those memoranda by U.S. Department of Justice memorandum dated January 4, 2018 from Attorney General Jefferson Sessions titled “Marijuana Enforcement”):

(1) preventing the distribution of Cannabis to minors;

(2) preventing revenue from the sale of Cannabis from going to criminal enterprises, gangs, and cartels;

(3) preventing the diversion of Cannabis from states where it is legal under state law in some form to other states;

(4) preventing state-authorized Cannabis activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;

(5) preventing violence and the use of firearms in the cultivation and distribution of Cannabis;

(6) preventing drugged driving and the exacerbation of other adverse public health consequences associated with Cannabis use;

(7) preventing the growing of Cannabis on public lands and the attendant public safety and environmental dangers posed by Cannabis production on public lands; and

(8) preventing Cannabis possession or use on federal property.

(nn) “Include”, whether or not capitalized, shall be deemed to be followed by “without limitation”.

(oo) “Immature Plant” means a nonflowering Cannabis plant that is not a Mature Plant or a seedling.

(pp) “Inactive Ingredient” means any component other than an Active Ingredient.

(qq) “License” means a limited grant of authority by the Commission under the Act to a specific Person to engage in certain Cannabis Related Business Activities that cannot be performed or engaged in without a License.

(rr) “Licensee” means any Person who has been issued a valid and current License under the Act.

(ss) “Marketing of Cannabis and Cannabis Products” includes advertising conducted through print, broadcast, radio, social media, Internet applications, billboards, and other channels of communication employed to conduct outreach to the public.

(tt) “Mature Plant” means a Cannabis plant that is flowering.

(uu) “Originating Establishment” means the Licensee that possesses the Cannabis or Cannabis Product to be transported immediately prior to transport.

(vv) “Person” means any business, proprietorship, association, partnership, syndicate, corporation, firm, joint venture, trust or other form of business association or entity, labor

organization, state, local government, government instrumentality or entity, as well as a natural person, while “person”, without an initial capital “P”, refers exclusively to a natural person.

(ww) “Pest” means undesired insect, rodent, nematode (small worm), fungus, bird, vertebrate, invertebrate, weed, virus, bacteria, or other microorganism (except microorganisms on or in humans or animals) injurious to health or the environment.

(xx) “Pesticide” means a substance used to destroy, repel or mitigate Pests.

(yy) “Petitioner” means the Person who challenges a Commission decision under the Act or is subject to an adverse decision by the Commission under the Act, including the denial, suspension, or revocation of a License under the Act.

(zz) “Presiding Officer” means the Chairperson under Subsection 13.04(a) of the Act, or the hearing officer designated under Subsection 13.04(b) of the Act, as applicable.

(aaa) “Quality” means that the Cannabis or Cannabis Product consistently meets the established specifications for identity, cannabinoid concentration, composition, and limits on contaminants, and has been manufactured, packaged, labeled, and held under conditions to prevent adulteration and misbranding.

(bbb) “Quality Control” means a planned and systematic operation or procedure for ensuring the quality of the Cannabis or Cannabis Product.

(ccc) “Regulation” means any regulation promulgated by the Commission under the Act, including these Regulations.

(ddd) “Reservation” means, pursuant to the Pokagon Restoration Act or other applicable federal law, all lands within the State:

- (1) the title to which is held in trust by the United States for the benefit of the Band;
and
- (2) proclaimed by the Secretary of the Interior to be part of the Band’s reservation.

“Reservation” includes any rights-of-way running through the Reservation.

(eee) “Reasonable Grounds” means articulable facts that make a conclusion more likely than not.

(fff) “Sample” means a portion or part of a Batch, the characteristics of which represent, as accurately as possible, the entire Batch, allowing for the laboratory Testing results of the sample to be generally applied to the entire Batch.

(ggg) “State” means the State of Michigan.

(hhh) “State Law” means all statutes and regulations of the State, including any regulations promulgated by the State Regulatory Agency.

(iii) “State Regulatory Agency” means the Michigan Cannabis Regulatory Agency.

(jjj) “State License” means a license issued by the State Regulatory Agency that allows a person to operate a “marihuana establishment” as defined under State law.

(kkk) “Temporary License” means a limited grant of authority by the Commission under the Act on an interim basis pending a decision regarding whether or not to grant a License to a specific Person to engage in certain Cannabis Related Business Activities that cannot be performed or engaged in without a License granted by the Commission under Chapter 9 or 10.

(lll) “Testing” means the research and analysis of Cannabis or Cannabis Products for contaminants, safety or potency. “Testing” or “test” includes the collection of Samples of Cannabis or Cannabis Products for testing purposes.

(mmm) “Tribal Council” means the governing body of the Band established under Article IX of the Constitution.

(nnn) “Tribal Court” means the trial level court and the appellate level court of the Band.

(ooo) “Tribal Police” means the Band Tribal Police.

(ppp) “Visibly Intoxicated” means displaying obvious, objective, and visible evidence of intoxication that would be apparent to an ordinary observer.

**CHAPTER 2
CANNABIS TRACKING SYSTEM**

Section 2.01 General Requirements.

(a) Unless excused by the Commission, all Licensees, except Cannabis Suppliers licensed by the State Regulatory Agency, shall track and trace Cannabis and Cannabis Products from Immature Plant to point of sale, transfer, or destruction, using a Cannabis Tracking System that has been approved by the State Regulatory Agency for use by State licensees.

(b) A Licensee shall record the following data in the Cannabis Tracking System:

- (1) all information related to the License including renewal, revocation, suspension, changes and other information;
- (2) a complete inventory of all Cannabis Goods or Services;
- (3) all Cannabis Employee Identification Numbers, including verification that any Cannabis Employee Identification Card is current and valid and has not been suspended, revoked or denied;
- (4) any changes to the Licensee's inventory of any Cannabis Goods or Services;
- (5) when Cannabis plants are partially or fully harvested or destroyed, including the type(s) and amount(s);
- (6) when Cannabis waste is destroyed, including the information described in subsection 6.02(e) of these Regulations;
- (7) when a sale or transfer occurs from a Cannabis Supplier to a Cannabis Facility and any other sale or transfer from one Licensee to another Licensee, including the date, time, quantity, and price of each sale or transfer of Cannabis or Cannabis Product;
- (8) when a sale or transfer occurs from a Cannabis Employee to a Cannabis customer, including the date, time, quantity, and price of each sale or transfer of Cannabis or Cannabis Product to a person that is at least twenty-one (21) years of age;
- (9) any theft of any Cannabis or Cannabis Product;
- (10) all sales records, including receipt and integration of information from third-party inventory control and tracking systems;
- (11) all mandatory Testing results; and
- (12) any other information required by the Cannabis Tracking System or as otherwise specified by the Commission.

(c) The Cannabis Inventory Tracking System shall consist of a controlled access electronic database accessible exclusively to Licensees and Commission personnel.

(d) The Cannabis Inventory Tracking System shall incorporate the use of bar code tags and labels, capable of being scanned, containing unique identifiers for association with individual Cannabis plants and Cannabis Products.

(e) No person shall intentionally misrepresent or falsify information entered in the Cannabis Inventory Tracking System. The Cannabis Inventory Tracking System shall be the system of record. The Licensee is responsible for the accuracy and completeness of all data and information entered in the Cannabis Inventory Tracking System.

Section 2.02 Implementation and Administration.

(a) Unless temporarily waived by the Commission for good cause shown, a Licensee shall have a Cannabis Tracking System account activated and functional prior to operating or exercising any privileges of a License. The Licensee shall keep and maintain comprehensive records to ensure adequate inventory tracking of any item listed in subsection 2.01(b) above during any period the Licensee is not using the Cannabis Tracking System.

(b) Each Licensee shall designate at least one employee as a Cannabis Tracking System administrator, provided that for a Cannabis Facility, the Cannabis Employee shall hold a Cannabis Employee Identification Card.

(c) To obtain a Cannabis Tracking System administrator account, a Licensee or its designee shall attend and successfully complete all required Cannabis Tracking System training. An Applicant may apply for an account and training once they receive notice from the Commission that their Application is complete or the Commission grants reciprocity under Section 10.08 of the Act.

(d) The Commission may also require additional ongoing, continuing education for the tracking system administrator to retain a Cannabis Tracking System administrator account.

(e) Each Licensee is responsible for all costs associated with its use of the Cannabis Tracking System and any associated vendor fees.

(f) A Licensee may designate additional employees as Cannabis Tracking System users, provided that for a Cannabis Facility, the employee shall hold a Cannabis Employee Identification Card. The Licensee shall ensure that all individuals who are granted Cannabis Tracking System user account access for the purposes of conducting inventory tracking functions in the system are trained by the Cannabis Tracking System administrators in the proper and lawful use of the Cannabis Tracking System.

(g) A Licensee shall maintain License and Cannabis Employee records concerning renewal, revocation, suspension, changes, reportable events and other information. A Licensee may, subject to Commission approval, use secondary software applications compatible with the

Cannabis Tracking System provided the Licensee enters into an agreement with the Commission to protect the confidentiality of the records.

(h) A Licensee shall ensure that each Cannabis Inventory Tracking System account administrator and user has a unique log-on, consisting of a username and password, which shall not be shared with or used by any other person.

(i) A Licensee shall cancel any Cannabis Inventory Tracking System account administrator or user from the Cannabis Inventory Tracking System account within seven (7) business days after the Cannabis Employee's employment with the Licensee is terminated.

(j) A Cannabis Tracking System administrator shall ensure that all inventory is tagged and entered in the Cannabis Inventory Tracking System as required by these Regulations.

(k) A Cannabis Tracking System administrator shall correct any information that is entered into the Cannabis Inventory Tracking System in error within three (3) business days of discovery of the error.

(l) A Cannabis Tracking System administrator shall monitor all notifications from the Cannabis Inventory Tracking System and resolve all issues identified in the notification. The notification shall not be dismissed by a Cannabis Tracking System administrator until the issue(s) identified in the notification has been resolved.

Section 2.03 Fees.

The Commission shall have no financial responsibility in connection with the Cannabis Tracking System, including for any fees and expenses charged by the software vendor for the Cannabis Tracking System accounts involved in linking the Cannabis Tracking System to the Licensee's other software.

Section 2.04 Prior to Implementation.

Until a Cannabis Tracking System is implemented by the Licensee, the Licensee shall maintain detailed inventory records of all Cannabis and Cannabis Products produced, received, sold, returned, or destroyed. The Licensee shall make such records available to the Commission upon request.

Section 2.05 System Data Points and Information Entry.

(a) A Licensee shall issue a unique identifier generated by the Cannabis Tracking System to each Batch of Cannabis or Cannabis Products that it produces or manufactures or that it otherwise changes the nature of in such a manner as to render the information from an existing unique identifier inaccurate or incomplete.

(b) Using the unique identifier, a Licensee shall enter each instance of the following activities into the Cannabis Tracking System for all Cannabis and Cannabis Products in its possession,

which data shall be entered during or promptly upon completion of an activity, but if not feasible for a specific transaction not later than twenty-four (24) hours after completion of the activity:

- (1) cultivation, harvesting, processing or manufacturing;
- (2) laboratory Testing and results;
- (3) packaging;
- (4) labeling;
- (5) storage;
- (6) sale or transfer;
- (7) transportation;
- (8) receipt;
- (9) return;
- (10) recall;
- (11) spoilage or adulteration;
- (12) destruction or disposal; and
- (13) any other instance prescribed by the Commission.

(c) For each activity entry, a Licensee shall enter into the Cannabis Tracking System the following corresponding information:

- (1) unique identifier of the Cannabis or Cannabis Product involved;
- (2) product, brand name, or type of Cannabis or Cannabis Product involved, as applicable;
- (3) amount of Cannabis by weight in metric and/or imperial units (as directed by the Commission), and by number for Cannabis Product, if appropriate;
- (4) nature of the activity and any required details;
- (5) date and time of the activity;
- (6) name and license number of the Licensees involved;
- (7) name and License or registration number of all employees conducting the activity;

- (8) address where the activity took place; and
- (9) any other information as may be prescribed by the Commission.

(d) System Outages.

(1) If a Licensee experiences a Cannabis Tracking System outage or is otherwise unable to access the Cannabis Tracking System for any reason, the Licensee shall:

(i) keep and maintain a detailed record, electronically if possible, in such a manner that provides safeguards against erasures and unauthorized changes in data, of all Cannabis activity conducted during the outage period that would otherwise be entered into the Cannabis Tracking System; and

(ii) immediately contact and alert the applicable system vendor to the outage.

(2) A Licensee shall maintain a record of all Cannabis Tracking System outages, including the time and date that access was lost and restored.

(3) If a Licensee experiences a Cannabis Tracking System outage for more than one (1) hour during normal business hours, the Licensee shall notify the Commission in writing of the outage, as soon as practicable but no later than the end of that business operations day, and maintain a log of all such communications.

(4) Within twenty-four (24) hours after a Licensee's access to the Cannabis Tracking System is restored, the Licensee shall complete a manual entry into the Cannabis Tracking System of all required information that took place during the outage period. If a Licensee can demonstrate that twenty-four (24) hours is not reasonably sufficient to complete the manual entry, the Commission may extend the deadline.

(e) Reconciliations.

(1) **Point of Sale Reconciliation.** A Licensee shall reconcile its records within the Cannabis Tracking System with the records of its point-of-sale software at the close of each day it conducts business. If reconciliation reveals a discrepancy, the Licensee shall determine the cause of the discrepancy and take corrective action. The Licensee shall immediately notify the Commission if the Licensee is unable to determine the cause of the discrepancy within three (3) days, or if the discrepancy is due to suspected theft or diversion. Upon such notification, the Commission may require the Licensee to report the event to Tribal Police.

(2) **Inventory Reconciliation.** A Licensee shall reconcile its records in the Cannabis Tracking System with its physical inventory at least once every month. If reconciliation reveals a discrepancy, the Licensee shall conduct an audit to determine the cause of the discrepancy and take corrective action. The Licensee shall immediately notify the Commission if the Licensee is unable to determine the cause of the discrepancy within three (3) days, or if the audit identifies a discrepancy between the Cannabis Tracking System

records and the physical inventory that appears to be due to theft. Upon such notification, the Commission may require the Cannabis Facility to report the event to Tribal Police.

CHAPTER 3 CANNABIS FACILITY LICENSES

Section 3.01 Determinations.

(a) The Commission shall make all Cannabis Facility License determinations in accordance with the Act, including Chapter 9 of the Act, and these Regulations.

(b) In accordance with subsection 9.04(b) of the Act, the Commission shall make its best effort to approve an Application within thirty (30) days following receipt of a complete Application.

(c) In accordance with subsection 9.04(e) of the Act, if the Commission denies an Application, the Commission shall promptly notify the Applicant of the specific reasons for such denial, provide a description of any corrective actions that the Commission determines will cure the deficiencies in the Application, and inform the Applicant of its right to appeal the determination in accordance with Chapter 14 of the Act.

Section 3.02 Fees.

(a) An Applicant shall pay the Commission a nonrefundable Application fee at the time of filing an Application for a Cannabis Facility License to defray the costs associated with administering the Commission's licensing responsibilities under the Act, including any background investigation conducted by the Commission.

(b) The Commission shall approve a schedule of fees each year in accordance with Section 8.05 of the Act, which schedule shall be deemed to be incorporated into these Regulations.

Section 3.03 Standards.

(a) In accordance with subsection 9.04(c) of the Act, the Commission shall approve the Application unless the Commission determines that the Cannabis Facility fails to meet the applicable standards under Band law, the Regulations, or any Compact or that, based on Reasonable Grounds, the Cannabis Facility will be operated in violation of Band law, the Regulations, or any Compact.

(b) Consistent with the purpose set forth in Section 1.04 of the Act, and the standard and burden set forth in subsection 8.07(a) of the Act, the Commission shall not approve an Application unless the Applicant establishes by clear and convincing evidence that the operation of the Cannabis Facility will protect the public health, safety, and welfare in a manner substantively similar to State Law regarding Cannabis Related Business Activities, which determination shall be based upon the Commission's review of the Application, including all plans required under Section 3.05 of these Regulations.

(c) Any failure by an Applicant to comply with the Application requirements of the Act or these Regulations shall be grounds for denial of the Application for a Cannabis Facility License.

Section 3.04 Application Procedure.

(a) The Applicant shall apply for a Cannabis Facility License on the Application form provided by the Commission.

(b) The Applicant for a Cannabis Facility License shall submit with the Application all other information, documents and forms required under the Act or these Regulations, and by the Commission.

(d) Upon receipt of a Completed Application for a Cannabis Facility License, the Commission shall comply with Section 9.04 of the Act.

(e) By submitting an Application for a Cannabis Facility License, the Applicant shall be deemed to have agreed to fulfill all responsibilities under the Act, these Regulations and any Compact and to have consented to the Commission’s exercise of its power and authority pursuant to the Act, these Regulations and any Compact.

Section 3.05 Plans.

(a) In addition to any other plans required under the Act, an Application for a Cannabis Facility License shall include the following plans:

- (1) a Security Plan;
- (2) a Safety and Hazard-Mitigation Plan;
- (3) a Facility Operations Plan;
- (4) a Cannabis Waste Disposal Plan;
- (5) an Inventory Control Plan;
- (6) a Storage of Cannabis Plan;
- (7) a Transportation Plan;
- (8) a Quality Control and Testing Plan;
- (9) a Retail Dispensing Plan;
- (10) a Restricting Access to Only Individuals Age 21 and Older Plan;
- (11) a Maintenance of Financial Records Plan;
- (12) an Emergency Response Plan; and
- (13) a Background Investigation and Training Plan for Cannabis Employees.

(b) An Applicant for a Cannabis Facility License may combine one or more of the above plans in a single plan, provided that the plan clearly identifies every component.

(c) Any plan required under these Regulations shall meet all applicable requirements of these Regulations and, to the extent not in conflict with these Regulations, all substantive requirements of State Law relating to the plan.

Section 3.06 Premises Review.

(a) The Commission shall condition a Cannabis Facility License on the Applicant providing the Commission with a certificate of occupancy issued by the Code Enforcement Officer under the Band's Health and Safety Act.

(b) In accordance with subsection 9.04(a)(2) of the Act, upon receipt of a Completed Application, the Commission shall review the premises of the Cannabis Facility to ensure that the premises comply with Band law, the Regulations, and any Compact.

(c) The review of the premises of the Cannabis Facility shall include a determination of whether the plans required under subsection 3.05 of these Regulations adequately protect the public health, safety, and welfare in consideration of such premises and operations of the Cannabis Facility.

(d) In accordance with the Act, including subsection 2.16(g), and these Regulations, including subsection 6.05(e), the Commission may periodically review the premises of the Cannabis Facility to ensure continued compliance with Band law, the Regulations, and any Compact.

Section 3.07 Renewal.

(a) The Applicant shall apply for a Cannabis Facility License on the renewal Application form provided by the Commission.

(b) The Applicant for a Cannabis Facility License shall submit with the Application all other information, documents and forms required under the Act or these Regulations, and by the Commission.

(c) By submitting a renewal Application for a Cannabis Facility License, the Applicant shall be deemed to have agreed to fulfill all responsibilities under the Act, these Regulations and any Compact and to have consented to the Commission's exercise of its power and authority pursuant to the Act, these Regulations and any Compact.

(d) The standards set forth in Section 3.03 of these Regulations shall apply to the renewal Application for a Cannabis Facility License.

(e) Upon receipt of a completed renewal Application for a Cannabis Facility License, the Commission shall act in accordance with Section 9.06 of the Act, including granting a Temporary License under subsection 9.06(d) of the Act, if appropriate.

(f) In accordance with subsection 9.06(a) of the Act, a Cannabis Facility shall submit a written renewal Application to the Commission on the form provided by the Commission at least forty-five (45) days prior to the date any Cannabis Facility License will expire.

(g) In accordance with subsection 9.06(b) of the Act, the Commission shall approve Applications to renew a Cannabis Facility License within thirty (30) days following the Commission's receipt of a complete Application unless the Commission determines that the Cannabis Facility does not meet the standards set forth in Section 3.03 of these Regulations.

(h) In accordance with subsection 9.06(c) of the Act, the Commission may, in its discretion, hold an open hearing to consider the Application in accordance with the procedures described in Chapter 13 of the Act, but the Commission may close the hearing or portions of the hearing to the extent authorized under the Open Meetings Act.

(i) In accordance with subsection 9.06(f) of the Act, if the Commission denies an Application to renew a Cannabis Facility License, the Commission shall, within seven (7) calendar days, notify the Applicant of the specific reasons for such denial, provide a description of any corrective actions that the Commission determines will cure the deficiencies in the Application and inform the Applicant of its right to appeal the determination in accordance with Chapter 14 of the Act.

CHAPTER 4 CANNABIS SUPPLIER LICENSES

Section 4.01 Determinations.

(a) The Commission shall make all Cannabis Supplier License determinations in accordance with the Act, including Chapter 10.

(b) In accordance with subsection 10.05(a) of the Act, within fifteen (15) days following the completion of the background investigations, the Commission shall meet, review the Application and the investigative report, and shall make a preliminary determination of whether the Applicant qualifies for a Cannabis Supplier License under this Chapter.

(c) In accordance with subsection 10.05(b) of the Act, if the Commission determines that the Applicant qualifies for the issuance of a Cannabis Supplier License, the Commission shall approve the Application and issue a Cannabis Supplier License.

(d) In accordance with subsection 10.05(c) of the Act, if the Commission determines that the Applicant qualifies for the issuance of a Cannabis Supplier License, but with conditions, the Commission shall approve the Application and issue the Cannabis Supplier License subject to any reasonable conditions required by the Commission.

(e) In accordance with subsection 10.05(d) of the Act, if the Commission determines that an Applicant does not qualify for a Cannabis Supplier License, the Commission shall notify the Applicant of such determination, including the specific reasons for the determination and of the right to a hearing under Chapter 13 of the Act before the Commission issues a final decision on the Application.

(f) In accordance with subsection 10.05(g) of the Act, if following such hearing, the Commission determines that the Applicant does not qualify for a Cannabis Supplier License, the Commission shall deny the Application, and within seven (7) calendar days, shall notify the Applicant of the denial, the specific reasons for the denial, and of the Applicant's right to appeal the denial under Chapter 14 of the Act.

Section 4.02 Fees.

(a) An Applicant shall pay the Commission a nonrefundable Application fee at the time of filing an Application to for a Cannabis Supplier License to defray the costs associated with administering the Commission's licensing responsibilities under the Act, including any background investigation conducted by the Commission.

(b) The Commission will establish the Application fee in accordance with Section 8.05 of the Act and subsection 3.02(b) of these Regulations.

Section 4.03 Standards

(a) In addition to the licensing standards under Section 10.04 of the Act, consistent with the purpose set forth in Section 1.04 of the Act and the standard and burden set forth in subsection 8.07(a) of the Act, the Commission shall not approve an Application unless the Applicant establishes by clear and convincing evidence that the operation of the Cannabis Supplier will protect the public health, safety, and welfare in a manner substantively similar to State Law regarding Cannabis Related Business Activities, which determination shall be based upon the Commission’s review of the Application.

(b) Any failure by an Applicant to comply with the Application requirements of the Act or these Regulations shall be grounds for denial of an Application for a Cannabis Supplier License.

Section 4.04 Application Procedure.

(a) The Applicant shall apply for a Cannabis Supplier License on the Application forms provided by the Commission.

(b) The Applicant for a Cannabis Supplier License shall submit with the Application all other documents required under the Act or these Regulations, and any other information or forms required by the Commission, including:

- (1) a signed Acknowledgement form required under subsection 10.02(c) of the Act; and
- (2) a signed Background Investigation form required under subsection 10.03(a) of the Act.

(c) Every Control Person shall provide to the Commission any information or forms required by the Commission, including a signed Acknowledgement form and Background Investigation form.

(d) Upon receipt of a Completed Application for a Cannabis Supplier License, the Commission shall act in accordance with Sections 10.03 and 10.05 of the Act.

Section 4.05 Renewal.

(a) The Applicant shall apply for a Cannabis Supplier License on the renewal Application form provided by the Commission.

(b) The Applicant for a Cannabis Supplier License shall submit with the Application all other information, documents and forms required under the Act or these Regulations, and by the Commission.

(c) By submitting a renewal Application for a Cannabis Supplier License, the Applicant shall be deemed to have agreed to fulfill all responsibilities under the Act, these Regulations and any Compact and to have consented to the Commission’s exercise of its power and authority pursuant to the Act, these Regulations and any Compact.

(d) The standards set forth in Section 4.03 of these Regulations shall apply to a renewal Application for a Cannabis Supplier License.

(e) Upon receipt of a completed renewal Application for a Cannabis Supplier License, the Commission shall act in accordance with Section 10.05 of the Act, including granting a Temporary License under subsection 10.07(d) of the Act, if appropriate.

(f) In accordance with subsection 10.07(a) of the Act, a Licensee shall submit a written renewal Application to the Commission on the form provided by the Commission at least sixty (60) days prior to the date any Cannabis Supplier License will expire, which Application may require the Licensee to revise and supplement the information provided to the Commission with the Licensee's initial Application for a Cannabis Supplier License.

(g) In accordance with subsection 10.07(b) of the Act, the Commission shall approve Applications to renew a Cannabis Supplier License within thirty (30) days following the Commission's receipt of a complete Application unless the Commission determines that the Licensee fails to meet the standards under Section 4.03 of these Regulations.

(h) In accordance with subsection 10.07(c) of the Act, the Commission may, in its discretion, hold an open hearing to consider the Application in accordance with the procedures described in Chapter 13, but the Commission may close the hearing or portions of the hearing to the extent authorized under the Open Meetings Act.

(i) In accordance with subsection 10.07(f) of the Act, if the Commission denies an Application to renew a Cannabis Supplier License, the Commission shall, within seven (7) calendar days, notify the Applicant of the specific reasons for such denial, and inform the Applicant of the Applicant's right to appeal the denial under Chapter 14 of the Act.

Section 4.06 Reciprocity

(a) The Commission may recognize and accept the licensing determinations of the State Regulatory Agency or the cannabis regulatory agency of another state regarding an Applicant in accordance with Chapter 10 of the Act and this Section 4.06, but only if the Commission determines that such other jurisdiction applies licensing standards that are as stringent and a background investigation process that is as rigorous as the Act requires.

(b) The Commission may waive the background investigation process and such other requirements of Chapter 10 of the Act and this Chapter 4 as it determines are unnecessary when granting reciprocity to the licensing determinations of another jurisdiction.

CHAPTER 5 CANNABIS EMPLOYEES

Section 5.01 Prerequisites to Hire.

(a) In accordance with subsection 11.01(b) of the Act, a Cannabis Facility shall not hire any person as a Cannabis Employee without first:

- (1) conducting or causing to be conducted a criminal history background check in accordance with subsection 11.01(a) of the Act; and
- (2) ensuring that the person is not included on the Excluded Cannabis Employee List.

(b) A Cannabis Facility shall not hire any person as a Cannabis Employee unless the person passes a criminal history background check based on the standards set forth in subsection 5.02(b) of these Regulations.

(c) A Cannabis Facility shall verify the identity and authorization to work in the United States of each person it seeks to hire as a Cannabis Employee in connection with conducting the criminal history background check.

Section 5.02 Background Investigation.

(a) In accordance with subsection 11.01(a) of the Act, a Cannabis Facility shall conduct or cause to be conducted a criminal history background investigation on any perspective Cannabis Employee before hiring that person.

(b) A Cannabis Facility shall conduct or cause to be conducted a criminal history background investigation on a Cannabis Employee within sixty (60) days prior to expiration of the Cannabis Employee's Cannabis Employee Identification Card under subsection 5.08(a) of these Regulations.

(c) The purpose of the criminal history background investigation shall be to determine whether a perspective or current Cannabis Employee was convicted of, or entered a plea of guilty, or no contest to:

- (1) any offense involving the distribution of a controlled substance to a minor, as employment of such persons is prohibited by subsection 11.01(b)(11) of the Act;
- (2) any misdemeanor involving any fraud, theft, dishonesty, or moral turpitude within five (5) years of the employment application date, but excluding any conviction or plea involving Cannabis, as the Commission has determined that a prohibition on employment of such persons by a Cannabis Facility is necessary to protect the health, safety, and welfare; or
- (3) any felony within ten (10) years of the employment application date, but excluding any crime determined by the Cannabis Facility to relate to the furtherance of the Band's tribal sovereignty rights or any conviction or plea involving Cannabis, as the

Commission has determined that a prohibition on employment of such persons by a Cannabis Facility is necessary to protect health, safety, and welfare.

(d) In accordance with subsection 11.01(a) of the Act, upon request by the Commission, a Cannabis Facility shall submit to the Commission the results of any criminal history background check relating to a prospective Cannabis Employee.

(e) Within seven (7) days of receiving the results of a criminal history background check, a Cannabis Facility shall submit to the Commission the results of any criminal history background check for any prospective or current Cannabis Employee who does not pass a criminal history background check based on the standards set forth in subsection 5.02(b) of these Regulations to enable the Commission to update the Excluded Cannabis Employee List.

Section 5.03 Excluded Cannabis Employee List.

(a) In accordance with subsection 11.01(b)(8) of the Act, the Commission shall maintain the Excluded Cannabis Employee List.

(b) The Excluded Cannabis Employee List shall be limited to the following persons:

(1) any person who was convicted of, or entered a plea of guilty, or no contest to any offense listed in subsection 5.02(c) of these Regulations; or

(2) any Cannabis Employee found by the Commission in connection with any investigation conducted under the Act to have willfully violated any provision of the Act, these Regulations, any Compact, or any plan described in subsection 3.05(a) of these Regulations, but only if the violation posed an immediate threat to the health, safety, and welfare of the Band or others.

(c) Upon adding any person to the Excluded Cannabis Employee List, the Commission shall, within seven (7) calendar days, notify the Cannabis Facility of the specific reasons for such addition, and inform the Cannabis Facility of its right to challenge the Commission's decision under Chapter 9 of these Regulations.

(d) A Cannabis Facility may challenge the Commission's decision to add any person to the Excluded Cannabis Employee List in accordance with hearing procedures set forth in Chapter 9 of these Regulations.

(e) A challenge by a Cannabis Facility shall not delay the effectiveness of the Commission's decision to add a person to the Excluded Cannabis Employee List, unless the Commission elects stay such decision either on its own, or upon request by a Cannabis Facility, following the Commission's receipt of a challenge.

(f) The Commission shall update the Excluded Cannabis Employee List not less than monthly, including to remove persons who no longer are qualify under subsection 5.02(b) of these Regulations.

(g) The Commission shall immediately provide each Cannabis Facility with any updated Excluded Cannabis Employee List.

(h) A Cannabis Facility shall not continue to employ any Cannabis Employee who is added to the Excluded Cannabis Employee List, provided that a Cannabis Facility may suspend the Cannabis Employee pending final resolution of any challenge by a Cannabis Facility.

(i) A Cannabis Facility shall not continue to employ any Cannabis Employee after becoming aware that the Cannabis Employee was convicted of, or entered a plea of guilty, or no contest to an offense stated in subsection 5.02(b) of these Regulations, regardless of whether the Cannabis Employee has been added to the Excluded Cannabis Employee List.

Section 5.04 Identification Card Application.

Consistent with subsection 11.01(b) of the Act, a Cannabis Facility shall submit to the Commission on a Cannabis Employee Information Form within seven (7) business days of the Cannabis Employee's hiring or, for a current Cannabis Employee, within twenty (20) days prior to expiration of a Cannabis Employee Identification Card, the following information:

(a) the Cannabis Employee's full name;

(b) the Cannabis Employee's date of birth;

(c) the results of the criminal history background investigation conducted by the Cannabis Facility under subsection 11.01(a) of the Act, which shall include whether the prospective Cannabis Employee passed the background investigation based on the standards set forth in subsection 5.02(b) of these Regulations; and

(d) a certification that the Cannabis Facility complied with the requirements of Section 5.01 of these Regulations.

Section 5.05 Identification Card Fee.

(a) The Commission will not charge a Cannabis Facility a separate Cannabis Employee Identification Card fee.

(b) In accordance with Section 8.05 of the Act, in establishing a schedule of fees for a Cannabis Facility License, the Commission will recoup the costs associated with administering the Cannabis Employee Identification Cards.

Section 5.06 Identification Card Issuance.

(a) In accordance with subsection 11.01(d) of the Act, the Commission shall issue to the Licensee a Cannabis Employee Identification Card for the Cannabis Employee within fourteen (14) days of receipt of the application for a Cannabis Employee Identification Card, unless the Cannabis Employee is on the Excluded Cannabis Employee List.

(b) If the Commission denies an application for a Cannabis Employee Identification Card, the Commission shall, within seven (7) calendar days, notify the Cannabis Facility of the specific reasons for such denial, and inform the Cannabis Facility of its right to challenge the Commission's decision under Chapter 9 of these Regulations.

(c) A Cannabis Facility may challenge the Commission's decision to deny an application for a Cannabis Employee Identification Card in accordance with hearing procedures set forth in Chapter 9 of these Regulations.

(d) A challenge by a Cannabis Facility shall not delay the effectiveness of the Commission's decision to deny a Cannabis Employee Identification Card, unless the Commission elects stay such decision either on its own, or upon request by a Cannabis Facility, following the Commission's receipt of a challenge.

(e) A Cannabis Facility shall not continue to employ any Cannabis Employee for whom the Commission has denied an application for a Cannabis Employee Identification Card, provided that the Cannabis Facility may suspend the Cannabis Employee pending final resolution of any challenge by a Cannabis Facility.

Section 5.07 Identification Card Form.

The Cannabis Employee Identification Card shall display on its face the Cannabis Employee's photograph, name, the Cannabis Employee Identification Number, the Cannabis Facility or Cannabis Facilities at which the Cannabis Employee is authorized to work, and the effective date and expiration date of the Cannabis Employee Identification Card.

Section 5.08 Identification Card Duration.

(a) A Cannabis Employee Identification Card shall be valid for three (3) years, except as otherwise provided in these Regulations.

(b) A Cannabis Employee Identification Card shall be deemed invalid on the date a Cannabis Employee no longer is employed by a Cannabis Facility.

Section 5.09 Identification Card Revocation.

(a) The Commission shall revoke the Cannabis Employee Identification Card for any Cannabis Employee who is added to the Excluded Cannabis Employee List.

(b) Upon any revocation of a Cannabis Employee Identification Card, a Cannabis Facility shall use reasonable efforts to cause a Cannabis Employee to deliver the Cannabis Employee Identification Card to the Cannabis Facility.

(c) Upon any resignation or termination of a Cannabis Employee's employment by a Cannabis Facility, a Cannabis Facility shall use reasonable efforts to cause a Cannabis Employee to deliver the Cannabis Employee Identification Card to the Cannabis Facility.

Section 5.10 Identification Card Carrying.

(a) A Cannabis Facility shall ensure that all Cannabis Employees to whom the Commission has issued a Cannabis Employee Identification Card carry a Cannabis Employee Identification Card on their person at all times while performing job duties unless such requirement is waived in writing by the Commission or Executive Director.

(b) A Cannabis Facility shall not permit any Cannabis Employee to whom the Commission has issued a Cannabis Employee Identification Card to perform job duties without carrying a Cannabis Employee Identification Card on their person at all times.

Section 5.11 Identification Card Replacement.

(a) A Cannabis Facility may submit a written request to the Commission for a replacement Cannabis Employee Identification Card for any Cannabis Employee Identification Card that is destroyed, damaged, or lost.

(b) A written request for a replacement Cannabis Employee Identification Card shall be made on a Replacement Card Request Form to be provided by the Commission.

(c) Notwithstanding Section 5.10 of this Regulations, a Cannabis Facility may permit a Cannabis Employee to perform job duties without carrying a Cannabis Employee Identification Card on their person if the Cannabis Employee Identification Card was destroyed, damaged, or lost, and a Replacement Card Request Form was submitted to the Commission, provided that this exception shall not apply once the Commission has issued a replacement Cannabis Employee Identification Card.

CHAPTER 6
CANNABIS OPERATIONS

Section 6.01 Reportable Events.

(a) A Licensee shall immediately notify the Commission upon becoming aware of any suspected:

- (1) diversion, theft, loss, adulteration, or unauthorized destruction of any Cannabis, Cannabis Accessory, or Cannabis Product;
- (2) loss or unauthorized alteration of records related to any Cannabis, Cannabis Accessory, or Cannabis Product;
- (3) Cannabis or Cannabis Product spoilage, contamination, or any other condition rendering the Cannabis or Cannabis Product potentially unsuitable for human consumption;
- (4) response by law enforcement to the Cannabis Facility for any reason;
- (5) damage to Band property or environmental contamination involving the premises;
- (6) injury to any Cannabis Employee, patron, or visitor to the Cannabis Facility; and
- (7) as otherwise required by these Regulations.

(b) A Cannabis Facility shall ensure that its Facility Operations Plan required under Subsection 3.05(a)(3) above requires each Cannabis Employee to immediately notify the Licensee of upon becoming aware of any suspected violation of Subsection 6.01(a) above. Additionally, Cannabis Employees may directly report to the Commission any such suspected violation.

(c) Upon such notification under subsection 6.01(a) or (b) above, the Commission may require the Licensee to notify Tribal Police of the event, if not already notified by the Licensee or a Cannabis Employee.

(d) Within twenty-four (24) hours of a Licensee providing the notice required by subsection 6.01(a) above, or the Commission contacting the Licensee in response to notice under subsection 6.01(b) above, the Licensee shall provide to the Commission a signed statement that details the factual circumstances of the event, including, as applicable:

- (1) an accurate inventory of the quantity and type of any Cannabis or Cannabis Product diverted, stolen, lost, destroyed or damaged;
- (2) a description of any records lost or altered, whether any internal or third-party investigation is still ongoing; and
- (3) confirmation that the Tribal Police were notified.

(e) A Licensee shall notify the Commission no later than the next business day after any of the following:

- (1) any alarm activation or other security event that warrants notification of the Tribal Police;
- (2) any breach of security;
- (3) any failure of a security alarm system due to a loss of electrical support or mechanical malfunction that is expected to last longer than two (2) hours; or
- (4) any disruption in video surveillance coverage.

(f) A Licensee shall notify the Commission within five (5) business days of any corrective measures taken in response to an event specified in subsection 6.01(d) above.

(g) A Licensee shall maintain and produce to the Commission all records related to an occurrence that is reportable pursuant to subsections 6.01(a), (c) and (d) above.

Section 6.02 Disposal.

(a) Prior to disposing of Cannabis waste, the Licensee shall render the waste unusable by grinding it and mixing it with an equal or greater volume of food waste, grass clippings, wood chips, yard waste or other organic, non-toxic and non-hazardous material that renders it unusable and unrecoverable, consistent with the Licensee's waste disposal plan.

(b) Soil, other growing media, root balls, stalks of Mature Plants, and leaves and branches that do not contain visible trichomes are not considered Cannabis waste.

(c) After rendering Cannabis waste unusable and unrecoverable, the Licensee shall record the Cannabis waste in the Cannabis Tracking System and store the Cannabis waste in an area inaccessible to the public until it is collected or disposed of in accordance with the Cannabis waste disposal plan.

(d) Cannabis waste shall not be stored in proximity to viable Cannabis material destined for human consumption creating a risk of contamination.

(e) The employee disposing of Cannabis waste shall maintain and produce a record in the Cannabis Tracking System of each such disposal indicating:

- (1) the date and time of disposal;
- (2) the manner of disposal;
- (3) the quantity of Cannabis waste disposed of;

(4) to the extent feasible, the unique identifier(s) issued by the Cannabis Tracking System to the Batch(es) of Cannabis or Cannabis Products that included the Cannabis waste; and

(5) the name and signature, which signature may be electronic, of the Licensee's employee disposing of the Cannabis waste, any Commission representative present during such disposal, and any other persons present during the disposal, as applicable.

(f) Wastewater generated by Cannabis cultivation or processing shall be recycled on the tract of land upon which the Cannabis Facility is located to the extent practicable and shall be disposed of in a manner that complies with applicable laws.

Section 6.03 Storage.

(a) All Cannabis and Cannabis Product shall be stored at the Licensee's Cannabis Facility in a secured limited access area or restricted access area and shall be identified and tracked consistently in the Cannabis Tracking System.

(b) All containers used to store Cannabis and Cannabis Product for transfer or sale to the public or between Licensees shall be clearly marked, labeled, or tagged, and enclosed on all sides in secured containers. Each secured container shall be identified and tracked in the Cannabis Tracking System.

(c) All chemicals or solvents shall be stored separately from Cannabis and Cannabis Product and shall be kept in locked storage areas approved for chemical storage. Safety Data Sheets for stored chemicals shall be accessible adjacent to the storage location.

(d) All Cannabis Products and materials used in direct contact with the Cannabis-infused products or edible Cannabis Products, shall have separate storage areas located away from all toxic or flammable materials.

(e) Cannabis Products not in final packaging shall be stored separately from other Cannabis Product in compliance with these Regulations.

(f) A retail Cannabis Facility shall ensure that all Cannabis and Cannabis Products being offered for sale or transfer to the public in a non-secure area are located behind a counter or other barrier located in a space that is separate from stock rooms and other secure areas where Cannabis and Cannabis Products are stored.

(g) A Licensee shall ensure that any Cannabis or Cannabis Product stock or storage room complies with the security plan filed with the Commission and meets the security requirements of these Regulations and any other applicable requirements in the Act, these Regulations and any Compact.

(h) Areas where Cannabis and Cannabis Products are stored will have continuance and dedicated video surveillance coverage.

Section 6.04 Inventory.

Prior to commencing business, a Cannabis Facility Licensee shall:

(a) conduct an initial comprehensive inventory of all Cannabis, Cannabis Product, and Cannabis Accessories at the facility; and

(b) establish ongoing inventory controls and procedures for the conduct of inventory reviews and comprehensive inventories of Cannabis, Cannabis Product and Cannabis Accessories, which shall enable the Licensee to detect any diversion, theft or loss in a timely manner.

Section 6.05 Records and Audits.

(a) A Licensee shall maintain records in the Cannabis Tracking System (and other records as needed for a complete set of records as necessary to fully show the business transactions related to Cannabis Goods and Services) for a period of the current tax year and the three (3) immediately preceding tax years, all of which shall be maintained and produced in accordance with subsection 6.05(b) below.

(b) All records, logs, reports or other documents, and every person in charge, or having custody of such documents shall maintain such documents in an auditable format. Upon request, such person shall make such documents immediately available for inspection and copying by the Commission and, unless the Commission grants an extension, shall provide copies of such documents to the Commission within three (3) days of receipt of a written request from the Commission. Such documents shall be provided to the Commission in electronic format, unless not commercially feasible.

(c) For purposes of supervision and enforcement activities, and in addition to all other authority under the Act, the Commission may:

(1) enter any Cannabis Transporter Vehicle within the Reservation, and a Licensee shall be responsible for ensuring Commission access;

(2) enter all areas of a Cannabis Facility, including any areas in which any Cannabis or Cannabis Product is stored, dispensed, sold, produced, manufactured, delivered, transported, or disposed of, and a Licensee shall be responsible for ensuring Commission access;

(3) enter any other place within the Reservation where Cannabis Related Business Activity has occurred and, if such Cannabis Related Business Activity relates to a Licensee, the Licensee shall be responsible for ensuring Commission access;

(4) inspect any such place referenced in subsection 6.05(c)(1) above, and all pertinent equipment, finished and unfinished material, containers and labeling, and all things in such place, including records, files, financial data, sales data, shipping data, pricing data, Cannabis Employee data, research, papers, processes, controls, and establishments. Such inspection may include onsite audits; and

(5) inventory and obtain Samples of any Cannabis, Cannabis Product, Cannabis Accessories, labels, containers for Cannabis or Cannabis Product, and finished or unfinished Cannabis Products for testing or other compliance activities.

(d) A Cannabis Facility shall not store, dispense, sell, produce, manufacture, deliver, or dispose of any Cannabis or Cannabis Product at any location within the Reservation except in accordance with the Act, these Regulations, and any Compact, except with the express prior authorization of the Commission.

(e) In accordance with subsection 2.16(g) of the Act, the Commission shall have access to all areas of a Cannabis Facility during hours of operation. Additionally, the Commission shall provide prior notice to the Cannabis Facility.

(f) The Commission shall have access to any location within the Reservation at which a Cannabis Facility engages in any Cannabis Related Business Activity during hours of operation. Additionally, the Commission shall provide prior notice to the Cannabis Facility.

(g) Notwithstanding, subsection 6.05(f) above, if the Commission determines that prior notice to a Cannabis Facility may impair the exercise of its supervision and enforcement activities under subsection 6.05(c) above, then the Commission may enter a Cannabis Facility or location described in subsection 6.05(f) above without prior notice to the Cannabis Facility.

Section 6.06 Security.

(a) A Licensee shall maintain a security plan, including a floor plan that shows all doors, windows, alarm sensors, alarm panels, video cameras and video storage devices. The security plan shall describe how alarms and video are monitored and backed up in case of loss of power.

(b) The security plan shall ensure compliance with Chapter 11 of the Act.

(c) Each Cannabis Facility shall comply with the requirements of Section 11.02 of the Act for any Authorized Visitor. A Cannabis Facility shall promptly report to the Commission if any person is present in the secured area of any Cannabis Facility who is not a Cannabis Employee or Authorized Visitor, or if any such person has violated the Act, these Regulations, or the Compact. Upon any such occurrence, the Commission may take any action permitted under the Act.

(d) A Licensee shall securely lock the Cannabis Facility, including interior rooms as required by these Regulations, windows, and points of entry and exits, with commercial-grade, nonresidential door locks or other electronic or keypad access. Locks on doors that are required for egress must meet the requirements of the Band's Health and Safety Act.

(e) A Licensee shall maintain an alarm system at the Cannabis Facility. Upon request, a Licensee shall make available to the Commission all information related to the alarm system, monitoring, and alarm activity. The alarm system:

- (1) shall be remotely monitored by the Licensee or an alarm company that can alert law enforcement of any breaches;
- (2) shall include perimeter sensors, motion sensors and vibration sensors; and
- (3) may include employee-activated trouble alarm capability directly transmitted to Tribal Police.

(f) A Licensee shall have a video surveillance system that, at a minimum, consists of digital or network video recorders, cameras capable of meeting the recording requirements in this Regulation, video monitors, digital archiving devices, and a color printer capable of delivering still photos.

(g) A Licensee shall ensure the video surveillance system does all the following:

- (1) records, at a minimum, the following areas:
 - (i) any areas where Cannabis or Cannabis Product is weighed, packed, stored, loaded, and unloaded for transportation, prepared, or moved within the Cannabis Facility;
 - (ii) limited access areas and security rooms (transfers between rooms must be recorded);
 - (iii) areas storing a surveillance system storage device with not less than 1 camera recording the access points to the secured surveillance recording area;
 - (iv) the entrances and exits to the Cannabis Facility, which must be recorded from both indoor and outdoor vantage points;
 - (v) point of sale areas where Cannabis and Cannabis Products are sold and displayed for sale;
 - (vi) areas where Cannabis or Cannabis Products are destroyed; and
 - (vii) Designated Consumption Areas.

(2) records, twenty- four (24) hours per day and seven (7) days per week, the area around any exterior door, as well as any area where any Cannabis or Cannabis Product is processed, stored, destroyed, disposed or prepared for transfer, sale or Testing. The recordings shall be a minimum of seven hundred twenty (720) pixels, fifteen (15) frames per second, Internet Protocol compatible and accurately stamped with date and time. Cameras shall have a backup power source that allows uninterrupted operation for a minimum of one hundred twenty (120) minutes.

(h) A Licensee shall ensure that each camera is permanently mounted and in a fixed location. Each camera must be placed in a location that allows the camera to clearly record activity occurring within 20 feet of all points of entry and exit on the Cannabis Facility and allows for the

clear and certain identification of any person, including facial features, and activities, including sales or transfers, in all areas required to be recorded under these rules.

(i) A Licensee shall have sufficient lighting to meet the video surveillance system requirements of this Section.

(j) A Licensee shall have cameras that record when motion is detected at the Cannabis Facility and record images that clearly and accurately display the time and date.

(k) A Licensee shall secure the physical media or storage device on which surveillance recordings are stored in a manner to protect the recording from tampering or theft.

(l) A Licensee shall keep surveillance recordings for a minimum of 45 calendar days, except in instances of investigation or inspection by the Commission in which case the Licensee shall retain the recordings until the time as the Commission notifies the Licensee that the recordings may be destroyed.

(m) Surveillance recordings are subject to inspection by the Commission and must be kept in a manner that allows the Commission to view and obtain copies of the recordings at the Cannabis Facility immediately upon request. A Licensee shall also send or otherwise provide copies of the recordings to the Commission upon request within the time specified by the Commission.

(n) A Licensee shall maintain a video surveillance system equipped with a failure notification system that provides notification to the Licensee of any interruption or failure of the video surveillance system or video surveillance system storage device.

(o) A Licensee shall maintain a log of the recordings, which includes the identify of:

(1) all Cannabis Employees who are responsible for monitoring the video surveillance system;

(2) any Cannabis Employee who removed any recording from the video surveillance system storage device and the time and date removed; and

(3) any Cannabis Employee who destroyed any recording.

(p) A Licensee shall store video footage either in a locked cabinet or closet that prevents tampering or theft or on a secure third-party server. A Licensee shall limit access to video footage and maintain a list of all individuals who have access to the footage. A Licensee shall permit the Commission to access the video footage during normal operating hours. The Commission may require that video footage, as identified by the Commission, be retained until otherwise directed by the Commission.

Section 6.07 Transportation.

(a) A Licensee is authorized to transport Cannabis and Cannabis Products as long as any Cannabis and Cannabis Products are in a locked, secured, and sealed container that is not

accessible while in transit. The container must be secured by a locked closed lid or door or sealed by tamper-proof tape or equivalent provided the means of sealing the product would alert the receiving Cannabis Facility that the Cannabis or Cannabis Products had been tampered with at some point from the time it departed the shipping Cannabis Facility. If a Licensee transports money associated with the purchase or sale of Cannabis or Cannabis Products, the Licensee shall lock the money in a sealed container kept separate from the Cannabis or Cannabis Products and only accessible to the Licensee and its employees.

(b) A Licensee shall have a route plan and manifest available for inspection by the Commission to determine compliance with the Act and these Regulations. A copy of the route plan and manifest must be carried by a Licensee during transport. A Licensee shall carry a copy of a route plan and manifest in the Cannabis Transporter Vehicle and shall present them to a law enforcement officer upon request.

(c) A Licensee shall generate a Commission-approved transport manifest through the Cannabis Tracking System in advance each time the Licensee transports any Cannabis or Cannabis Product, which shall include:

- (1) the name, address, phone number, and license number of the Originating Establishment, the shipment, and the Licensee receiving the shipment.
- (2) the description and quantities of each item in the shipment, date and time of shipment;
- (3) the make, model, and license plate number of the Cannabis Transporter Vehicle;
- (4) the date and time of arrival at destination locations; and
- (5) the name and signature of the driver and any other person in the Cannabis Transporter Vehicle and name and signature of the person receiving the shipment.

(d) A Licensee shall not possess Cannabis or Cannabis Products that are not listed on a manifest.

(e) A Licensee that is transferring Cannabis and Cannabis Products shall remain onsite until the Cannabis or Cannabis Products are weighed and accepted or rejected before leaving the Cannabis Facility.

(f) Cannabis Transporter Vehicles are subject to inspection within the Reservation at any time by the Commission to determine compliance with the Act and these Regulations.

(g) All persons transporting Cannabis or Cannabis Products for a Cannabis Facility shall be Cannabis Employees or shall be employees of a Cannabis Supplier with a valid Cannabis Supplier License, including a License granted through reciprocity under Section 10.08 of the Act.

(h) All persons transporting Cannabis or Cannabis Products for any Licensee on a public road within the Reservation in connection with any Cannabis Related Business Activity shall at all

times while engaged in such activity wear an identification badge issued by the Licensee that is affixed to a conspicuous place on the outside of their clothing. Cannabis Employees shall wear a Cannabis Employee Identification Card that is affixed to a conspicuous place on the outside of their clothing.

(i) For persons other than Cannabis Employees, the identification badge shall include, at a minimum, the following information:

- (1) the person's full name;
- (2) the person's picture (taken within the prior two years);
- (3) the unique number assigned to the person by the Commission, if applicable; and
- (4) the name of the Licensee that employs the Cannabis Employee.

(j) All persons transporting Cannabis or Cannabis Products for any Licensee on a public road within the Reservation in connection with any Cannabis Related Business Activities shall always possess a legible copy of the Cannabis Facility or Cannabis Supplier License, as applicable.

(k) A Licensee shall provide to the Commission, the make, model, and license plate number of all Cannabis Transporter Vehicles.

(l) All Cannabis Transporter Vehicles shall be insured, have valid state-issued vehicle registration, be in good working order and equipped with an alarm and locking compartments for securing cargo, and must be equipped with a vehicle-rated fire extinguisher and battery jumper cables.

(m) All Cannabis Transporter Vehicles used to engage in any Cannabis Related Business Activities within the Reservation shall contain sufficient fuel to minimize the need to refuel in transit.

(n) All Cannabis Transporter Vehicles shall contain no exterior markings which identify the contents of the vehicle.

(o) No firearms shall be permitted in Cannabis Transporter Vehicles.

(p) All Cannabis Transporter Vehicles shall have a heating system and a cooling system that is adequate to keep Cannabis and Cannabis Products within a temperature range that prevents melting, spoilage or other damage.

(q) A Licensee shall identify and record all Cannabis Transporter Vehicles with the Commission and have the required vehicle registration with the secretary of state as required under State law. A Licensee's Cannabis Transport Vehicles is subject to inspection at any time when within the Reservation by the Commission to determine compliance with the Act and these Regulations.

(r) A person operating a Cannabis Transporter Vehicle shall have access to a secure form of communication with the Cannabis Facility, such as a cellular telephone, at all times in the vehicle or on his or her person.

(s) When transporting Cannabis or Cannabis Products, a person operating a Cannabis Transporter Vehicle shall:

- (1) maintain a physical or electronic copy of each delivery request and shall make the marihuana delivery request available to the Commission upon request; and
- (2) not leave Cannabis or Cannabis Products in an unattended Cannabis Transporter Vehicle unless the Cannabis Transporter Vehicle is locked and equipped with an active vehicle alarm system.

(t) All Cannabis Transporter Vehicles must contain a global positioning system (GPS) device for identifying the geographic location of the Cannabis Transporter Vehicle. The device must be either permanently or temporarily affixed to the Cannabis Transporter Vehicle while it is in operation, and the device must remain active and in the possession of the person operating the Cannabis Transporter Vehicle at all times during delivery. A Licensee must be able to identify the geographic location of each Cannabis Transporter Vehicles at all times.

(u) The person operating Transporter Vehicles shall maintain a log that includes all stops within the Reservation, and the reason for each stop. A Licensee shall maintain the log for a minimum of one (1) year from the date of delivery and make it available to the Commission upon request. The log may be maintained electronically.

(v) A Licensee shall maintain a record of each delivery of Cannabis and Cannabis Products in a Cannabis Delivery Log, which may be a hard copy or electronic format. A Licensee shall maintain Cannabis Delivery Logs for a minimum of one (1) year from the date of delivery and shall be provided to Commission upon request. For each delivery, the Cannabis Delivery Log must record the following:

- (1) the date and time that the delivery began and ended;
- (2) the name of each person operating the Cannabis Transporter Vehicle;
- (3) the amount and type of Cannabis and Cannabis Products delivered; and
- (4) the signature of the individual who accepted delivery.

(w) A Licensee shall notify the Commission, or law enforcement of any theft, loss of Cannabis or Cannabis Products, or criminal activity. A Licensee shall report to the Commission and law enforcement, if applicable, any other event occurring during the transport of Cannabis or Cannabis Products that violates the Act, these Regulations, or the Licensee's Transportation Plan, including any collisions involving Cannabis Transporter Vehicles or any diversion of Cannabis or Cannabis Products.

(x) The Cannabis Facility to which Cannabis or Cannabis Product is delivered shall document in a discrepancy report any difference between the type and quantity of Cannabis or Cannabis Product documented on the transport manifest and the type and quantities of Cannabis or Cannabis Product received. The Cannabis Facility shall promptly forward each discrepancy report to the Commission for investigation.

CHAPTER 7 SAFETY

Section 7.01 Testing.

Before any Cannabis or Cannabis Product is sold, a Sample shall be tested in accordance with the minimum standards in the most current version of the *Sampling and Testing Technical Guidance for Marijuana Products* published by the Michigan Cannabis Regulatory Agency.

Section 7.02 Labeling.

(a) Before any Cannabis or Cannabis Product is sold or transferred it shall be packaged and properly labeled, in a sealed bag or container, which label shall include all of the following:

- (1) the name of the Cannabis or Cannabis Product;
- (2) the Concentration of Tetrahydrocannabinol (THC) and cannabidiol (CBD) as reported by the laboratory after potency Testing along with a statement that the actual value may vary from the reported value by 10%;
- (3) the activation time expressed in words or through a pictogram;
- (4) the ingredients of the Cannabis or Cannabis Product, in descending order of predominance by weight (Inactive Ingredients shall be clearly listed on the label);
- (5) the net weight or net volume of the product;
- (6) the unique identifier issued by the Cannabis Tracking System to the Batch of Cannabis or Cannabis Product being packaged and labeled for sale or transfer;
- (7) the following warnings: “CONTAINS CANNABIS. There may be health risks associated with the use of this product. There may be additional health risks associated with the use of this product for women who are pregnant, breastfeeding or planning on becoming pregnant. Do not drive a motor vehicle or operate heavy machinery while using this product. National Poison Control Center 1-800-222-1222.”; and
- (8) the following statement: “It is illegal to drive a vehicle while under the influence of cannabis. For use by individuals 21 years of age or older. Keep out of reach of children.”

(b) All edible Cannabis Products shall comply with subsection 7.02(a) above and:

- (1) shall include allergen labeling as specified by the Food and Drug Administration (FDA), Food Allergen Labeling and Consumer Protection Act of 2004 (FALCPA), 21 USC 343;
- (2) if any health or nutritional claim is made, appropriate labeling as specified by the federal regulations regarding Food Labeling, 21 CFR part 101;

Section 7.03 Packaging.

(a) Before Cannabis and Cannabis Products are sold or transferred, the container, bag, or product holding the marijuana product must be sealed and labeled.

(b) An edible Cannabis Product shall be in opaque, child-resistant packages or containers that meet the effectiveness specifications outlined in 16 CFR 1700.15.

(c) An edible Cannabis Product containing more than one serving shall be in a resealable package or container that meets the effectiveness specifications outlined in 16 CFR 1700.15.

(d) Consumer information should be clear and noticeable, as well as easily accessible to consumers. Cannabis and Cannabis Products shall contain no health or physical benefit claims.

(e) Packaging will not be designed to be attractive to individuals under the age of 21, and will not display any of the following:

(1) any cartoons;

(2) any likeness to images, characters, or phrases that are popularly used to advertise to children;

(3) any imitation of candy packaging or labeling;

(4) the terms “candy” or “candies;” or

(5) the package shall not imitate any package used for products typically marketed to children.

(f) All information required to be listed on a label shall be written in English.

(g) The packaging of all Cannabis Products will contain a list of ingredients, and expiration date, if applicable, refrigeration required, if appropriate, net weight of the product, and a Batch number or some other tracking identification number as appropriate.

(h) All required label information shall be located on the outside container or wrapper of the finished product to be sold to consumers.

(i) All labeling and packaging shall not contain any claim related to health or health benefits, unless a qualified health claim has received and complies with a Letter of Enforcement Discretion issued by the FDA, or the health claim has been approved under the significant scientific agreement standard by the FDA.

Section 7.04 Marketing.

All Marketing of Cannabis and Cannabis Products shall:

(a) not be conducted in a way that is deceptive, false, or misleading, including through any deceptive, false, or misleading assertions or statements on any Cannabis or Cannabis Product sign or document;

(b) not contain any claim related to health or health benefits, unless a qualified health claim has received and complies with a Letter of Enforcement Discretion issued by the FDA, or the health claim has been approved under the significant scientific agreement standard by the FDA;

(c) include cautionary language regarding the effects of Cannabis varying from person to person and an admonishment to keep all Cannabis and Cannabis Products out of the reach of children;

(d) not be directed to members of the public unless the person advertising the product has reliable evidence that no more than 30 percent of the audience or readership for the television program, radio program, internet website, or print publication, is reasonably expected to be under the age of 21;

(e) not use any depictions or images of persons under 21 years of age shall not include graphics or photographs which depict toys, cartoon characters, games, movie characters, sports figures, or any images likely to be appealing to minors or anyone under 21 years of age; and

(f) not be located or distributed within 1000 feet of an educational institution, public library, recreation center, or any other location where minors are known to gather.

Section 7.05 Drugged Driving Prevention.

A Cannabis Facility shall not permit the onsite use or consumption of any Cannabis or Cannabis Product by any person who is Visibly Intoxicated.

CHAPTER 8
DESIGNATED CONSUMPTION AREAS

Section 8.01 Commission Approval.

(a) A Cannabis Facility may apply to the Commission for approval of a Designated Consumption Area when submitting its initial Application to the Commission for a License to operate as a Cannabis Facility or at any time thereafter.

(b) In accordance with the Act, including subsections 6.01(b) and 9.01(b), upon Commission review of an Applicant's or Cannabis Facility's proposed operations plan and floor plan that meets the requirements of this Chapter and approval of the proposed Designated Consumption Area, a Cannabis Facility that is licensed under the Act may:

(1) sell Cannabis and Cannabis Product for use or consumption within Designated Consumption Areas; and

(2) permit persons who are twenty-one (21) years of age or older to use and consume Cannabis and Cannabis Products within Designated Consumption Areas.

(c) In accordance with subsection 11.03(b) of the Act, may allow the consumption of food and beverages in the Designated Consumption Area.

(d) A Cannabis Facility shall post within each Designated Consumption Area all notices as may be required by the Commission, which may include warnings related to intoxication and operating a motor vehicle while Visibly Intoxicated.

(e) A Cannabis Facility shall notify the Commission of any special events that will involve the use or consumption of Cannabis or Cannabis Product within a Designated Consumption Area, including promotional events organized by the Cannabis Facility and events where a Designated Consumption Area is reserved by a third party.

(f) The notice required under subsection 8.01(d) above shall be provided in writing as soon as practicable, but not later than two (2) business days before the special event and shall include a detailed explanation of the event.

Section 8.02 Operations.

(a) The operations plan for a Designated Consumption Area shall:

(1) include a detailed explanation for how Cannabis Employees will identify, prevent, and address any person who is Visibly Intoxicated from the using or consuming Cannabis or Cannabis Products within a Designated Consumption Area, underage access to a Designated Consumption Area, and any other activity on the grounds of the Cannabis Facility that is prohibited under applicable law;

(2) provide for adequate security and lighting within the Designated Consumption Area to ensure the safety of persons and to protect against theft;

(3) state procedures to ensure the following:

(i) only Cannabis and Cannabis Product purchased or obtained from the Cannabis Facility shall be consumed within a Designated Consumption Area, and no other Cannabis Product shall be permitted within a Designated Consumption Area;

(ii) access to a Cannabis Consumption Area shall be restricted to persons 21 years of age and older;

(iii) no on-site sale of alcohol or tobacco to any person shall be permitted within a Designated Consumption Area;

(iv) no on-site consumption of alcohol or tobacco by any person shall be permitted within a Designated Consumption Area;

(v) a Designated Consumption Area shall provide adequate security and lighting on-site to ensure the safety of persons and protect the premises from theft at all times in conformance with the security plan submitted to the Commission

(vi) if a Designated Consumption Area is located within the interior of the Cannabis Facility, an odor absorbing ventilation and exhaust system must be installed so that odor generated inside the Designated Consumption Area is not detected outside premises of the Cannabis Facility; and

(vii) if a Designated Consumption Area is located within the interior of a Cannabis Facility, it shall be a well-ventilated private area that is partitioned off from access to all other areas of the Cannabis Facility and designed to prevent the flow of smoke to any other area of the Cannabis Facility.

(b) A Cannabis Facility shall cut off service of Cannabis and Cannabis Product to any customer who is Visibly Intoxicated and provide information on ride services.

(c) A Cannabis Facility shall train Cannabis Employees about the various Cannabis and Cannabis Products that can be purchased and consumed within a Designated Consumption Area, including potency, absorption time, and effects.

(d) A Cannabis Facility shall cause Cannabis Employees to educate customers as to the potency, absorption time and effects of Cannabis and Cannabis Products that are purchases and consumed within a Designated Consumption Area.

(e) A Cannabis Facility shall ensure that solid waste receptacles and recycling bins, in sufficient numbers and locations to the to account for peak business periods are placed and properly maintained within a Designated Consumption Area.

(f) A Cannabis Facility shall ensure that promptly following opening each day a Designated Consumption Area and all areas within at least one hundred feet of the Designated Consumption Area are free of any waste or litter generated by use of the Designated Consumption Area.

Section 8.03 Floor Plan.

The floor plan shall include the following for each Designated Consumption Area:

- (a) number of rooms and distinct outdoor spaces comprising the Designated Consumption Area;
- (b) sizes and dimensions of rooms and outdoor spaces;
- (c) locations and description of all fire walls;
- (d) locations, sizes and descriptions of all windows and doorways;
- (e) locations and description of all lighting, surveillance and other systems, and equipment;
- (f) locations of any hazardous materials storage, fire extinguishers, and personal protection supplies; and
- (g) any other information required by the Commission.

CHAPTER 9 HEARING PROCEDURES

Section 9.01 Scope.

(a) Under subsection 2.16(d)(6) of the Act, the Commission is empowered to conduct such hearings as it may deem appropriate in carrying out its duties and responsibilities under the Act in accordance with Chapter 13 of the Act and any Regulations.

(b) The Act and these Regulations provide for a hearing before the Commission in certain circumstances, including as follows:

- (1) Chapter 13 of the Act sets forth hearing procedures, and subsection 13.01 of the Act requires the Commission to promulgate Regulations establishing standards and procedures for conducting hearing consistent with the Act;
- (2) Under Section 13.02 of the Act, except as otherwise stated in the Act, the Commission shall afford an Applicant an opportunity for a hearing prior to taking certain final action on an Application, a Licensee a hearing prior to taking certain enforcement action, and other Persons a hearing prior to issuing a decision;
- (3) Under subsection 2.16(i)(5), any enforcement action taken by the Commission, shall be conducted in accordance with the hearing procedures described in Chapter 13 of the Act;
- (4) Section 5.03(e) of these Regulations grants a Cannabis Facility the right to a hearing to challenge the Commission's decision to add any person to the Excluded Cannabis Employee List in accordance with this Chapter 9; and
- (5) Subsection 5.06(c) of these Regulations grants a Cannabis Facility the right to challenge the Commission's decision to deny an application for a Cannabis Employee Identification Card in accordance with this Chapter 9.

(c) This Chapter 9 supplements Chapter 13 of the Act for any hearing before the Commission.

Section 9.02 Notice of Hearing.

(a) Except as provided otherwise in the Act or these Regulations, the Commission shall provide written notice to Petitioner of:

- (1) an Enforcement Hearing at least twenty one (21) days prior to the date set for the hearing; and
- (2) all other hearings at least fourteen (14) days prior to the date set for the hearing.

The day the Petitioner receives the notice shall be considered a full day's notice under this Section.

(b) The notice shall be sent by a United States mail or private carrier/courier using services that document an attempted delivery or may be personally served upon the Petitioner, including by a Commission staff member.

(c) The notice shall state the date, time, and place of the hearing, shall describe the purposes and reasons for the hearing, including whether the hearing is an Enforcement Hearing, and shall summarize the evidence being relied on by the Commission in support of its decision or Enforcement Proceeding, provided that such requirement shall not prohibit the Commission from considering other evidence.

Section 9.03 *Ex Parte* Communications.

(a) No *ex parte* communication (i.e., communications outside the official record of the proceeding that do not include the Commission's legal counsel, the Executive Director, or the Executive Director's designee) relative to any matter being considered by the Commission, or a threat or offer of reward, shall be made to any Commissioner by or on behalf of the Petitioner, including by Petitioner's attorney.

(b) Nothing in this Section shall prohibit the Petitioner or Petitioner's attorney from communicating with the Commission's legal counsel, the Executive Director, or the Executive Director's designee.

(c) Any Commissioner who receives an *ex parte* communication shall immediately report such communication to the Commission's legal counsel and, if made in writing, provide a copy to the Commission's legal counsel.

(d) For purposes of this Section only, the matters being considered by the Commission shall be limited to those matters identified in the written notice regarding the hearing as well as any other matters that are actually considered by the Commission during a hearing, provided that the due process rights of the Petitioner under the Act, these Regulations, or other applicable law will not be abridged or deprived without the Petitioner's knowing and voluntary consent on the record.

(e) All matters identified in the written notice shall be subject to the prohibition against *ex parte* communications, and all matters not identified in the written notice that are considered by the Commission during a hearing shall become subject to the prohibition against *ex parte* communications as soon as they are discussed during the hearing.

(f) The Commission shall have the power to impose an appropriate sanction on the Petitioner upon its determination that a Petitioner has made an *ex parte* communication in violation of this Section.

Section 9.04 Attorney Appearances.

(a) The Petitioner may appear personally or through an attorney, except that the Petitioner shall personally attend any hearing on the merits unless such attendance has been waived, in writing, by the Commission.

(b) When the Petitioner has appeared through an attorney, service of all notices, motions, orders, decisions, and other papers thereafter shall be made upon the attorney, unless the Petitioner requests otherwise in writing.

(c) When the Petitioner is represented by an attorney, the attorney shall sign all motions, notices, requests, and other papers on behalf of the Petitioner, including a request for subpoenas. Subsection 13.03(a) of the Act governs the issuance of subpoenas by the Commission.

(d) Any attorney appearing before the Commission shall be duly admitted and authorized to practice before the Pokagon Band Tribal Court, provided that the Commission may permit on a case-by-case basis, for good cause shown by written application to the Commission, the appearance before the Commission of any attorney who is duly licensed to practice law in any other jurisdiction.

Section 9.05 Discovery.

(a) The Commission and the Petitioner shall have the right to discovery in Enforcement Proceedings in accordance with this Section.

(b) The Commission's legal counsel and the Petitioner shall exchange a list of persons that each party intends to call as witnesses no later than five (5) business days before a scheduled hearing. The day the list is received shall be considered a full day's notice under this Section.

(c) Each witness shall be identified by name, if known, position and business address. If no business address is available, a home address for the witness shall be provided.

(d) Any witness not identified in accordance with this Section may be prohibited from testifying at a hearing at the discretion of the Presiding Officer.

(e) The Commission's legal counsel and the Petitioner shall exchange a copy of all documents or exhibits that they intend to offer as evidence in support of their case in chief, subject to the provisions of Section 9.06 below. This exchange shall be made to the opposing party no later than five (5) business days before a scheduled hearing. The day the documents or exhibits are received shall be considered a full day's notice under this Section.

(f) The failure to make available any document or exhibit in accordance with this Section may, at the discretion of the Presiding Officer, be grounds to deny the admission into evidence of such document or exhibit.

Section 9.06 Confidential Information.

(a) Prior to submitting any documents or exhibits to the Commission, the Commission's legal counsel or the Petitioner may designate any document it reasonably believes to contain confidential information as "Subject to a Confidentiality Claim" by so marking the document in a prominent manner.

(b) Any documents marked under subsection 9.06(a) shall not be exchanged with the opposing party but shall be made available for inspection at the Commission's office.

(c) Any documents marked under subsection 9.06(a) and any non-public information contained within such marked document, shall not be made a part of the public record of the Commission proceedings or otherwise disclosed by the Commission to any Person (except as may be required under any applicable law, rule, regulation, court or administrative order, or any Compact), without first providing the Commission's legal counsel or the Petitioner with the opportunity to seek a ruling by the Commission that the document or non-public information contained therein should not be made public.

(d) The request for such a ruling and any discussions relating to the document shall be heard and ruled upon by the Commission in a timely manner, but not later than at the outset of the hearing. If the request for such a ruling is made during a public hearing, the hearing shall be adjourned, and the Commission shall conduct a closed session to hear and rule upon the request of the Commission's legal counsel or the Petitioner. The Commission's legal counsel or the Petitioner may present to the Commission in a closed meeting written and oral argument regarding the confidentiality claim, along with any facts the Commission's legal counsel or the Petitioner believes to be relevant to such argument.

(e) In determining whether a document marked in accordance with subsection 9.06(a) above should be made part of the public record of the Commission proceedings, the Commission shall balance the claim for confidentiality against the materiality of the information to the related regulatory procedure or subject of the hearing, the public's right to be made aware of the information, and the Commission's need to make the information part of the public record in order to remain fully accountable for the Commission's decision. In making this determination, the Commission shall consider all facts and circumstances relevant to making a proper ruling.

(f) In determining whether a document marked in accordance with subsection 9.06(a) above should be made part of the public record of the Commission proceedings, the Commission may consider whether the rights of the public to be aware of the information and the rights of the Commission or the Petitioner to the protection of confidential information contained in the document may be effectively addressed, at least in part, by the redaction of certain confidential information contained in the document.

(g) If the Commission rules during a closed meeting that the document in question or information contained therein should be made part of the public record of the Commission's

proceedings, the document or information shall be made part of the public record unless the Commission's legal counsel or the Petitioner requests that the Commission withdraw the document from the proceeding and the Commission's possession. In the event the Commission's legal counsel or the Petitioner requests that the document be withdrawn from the Commission's possession, the Commission shall consider the withdrawal request when it weighs the other evidence in the proceeding. A withdrawal of documents from the proceeding shall be looked upon by the Commission with disfavor, and, depending on the facts and circumstances, the Commission may deem the withdrawal of any document at Petitioner's request to be sufficient cause in and of itself to deny the relief requested by the Petitioner.

(h) If the Commission rules during a closed meeting that the document in question or information contained therein should not be made part of the public record, the document shall be designated "Confidential" and shall not be part of the public record. The Commission may consider the document and information contained therein *in camera* in making its determination.

(i) At the conclusion of the Commission proceedings, the Commission shall return to the Petitioner all documents marked as "Subject to a Confidentiality Claim" pursuant to subsection 9.06(a) above: (1) that were not made part of the public record of the proceeding; or (2) that were designated as "Confidential" and considered by the Commissioners *in camera*.

Section 9.07 Hearing Rules.

(a) All hearings shall be conducted in accordance with the Act, including Section 13.04 of the Act.

(b) The Commission shall have the power and discretion to issue subpoenas in accordance with Section 13.03 of the Act.

(c) The Presiding Officer may exercise discretion to limit the testimony of witnesses where that testimony constitutes hearsay or is irrelevant, argumentative, or repetitive.

(d) The Presiding Officer may caution or eject from the hearing any person who is disruptive, disorderly, or who shows a lack of proper respect for the Commission or the proceedings.

(e) Persons shall be permitted to speak at a hearing only when recognized by the Presiding Officer.

(f) Any party to the hearing may call and examine witnesses and conduct cross-examinations reasonably required for a full and fair presentation of relevant facts.

(g) Any Commissioner may ask questions of witnesses. The Presiding Officer may request or allow additional evidence at any time before the submission of evidence has been completed.

(h) In accordance with Subsection 13.04(f) of the Act and the Band's Open Meeting Act, all hearings shall be open to Band Citizens, except as otherwise permitted under the Band's Open Meetings Act.

Section 9.08 Rules of Evidence.

(a) Hearings shall not be subject to any formal rules of evidence. The Presiding Officer shall admit all testimony having reasonable probative value, but shall exclude hearsay, irrelevant, or unduly repetitious testimony.

(b) The Commission shall give effect to the rules of privilege unless such privilege is waived. Basic principles of relevancy, materiality and probative force shall govern the proof of all questions of fact. Objections to evidentiary offers and offers of proof of evidence not admitted may be made and shall be noted in the record.

(c) Any evidence, including records and documents in the possession of the Commission which the Commission desires to avail itself, shall be duly offered and made a part of the record in the case.

(d) Every party shall be afforded adequate opportunity to rebut or offer countervailing evidence.

(e) The Commission or the Presiding Officer may take official notice of any well-recognized fact or any established technical or scientific fact or process, but the Petitioner shall be notified before the hearing, including by full reference in preliminary reports or otherwise, of the facts so noticed by the Presiding Officer, and the Petitioner shall be afforded an opportunity to contest the validity of the Presiding Officer's official notice of any facts.

(f) Documentary evidence may be received in the form of copies or excerpts if the original is not readily available. Upon request, the Presiding Officer or the Petitioner shall be given an opportunity to compare the copy to the original.

(g) The record in all hearings shall include:

- (1) all Applications, intermediate rulings and exhibits and appendices thereto;
- (2) evidence received or considered, stipulations and admissions, including confidential evidence received pursuant to these Regulations;
- (3) a statement of facts officially noticed;
- (4) questions and offers of proof, objections, and rulings thereon;
- (5) any decision, opinion, findings, or report by the Commission; and

(6) the transcript prepared by a duly certified court reporter, unless the Commission waives the need for a transcript to be prepared.

(h) The Commission shall have the affirmative obligation to establish by a preponderance of the evidence violations of the Act, these Regulations, or any Compact.

(i) In accordance with Subsection 8.07(a) of the Act, Petitioner shall have the burden of proving by clear and convincing evidence that all standards and other requirements applicable to such License have been or continue to be met, including qualification for any License.

(j) Petitioner shall have the burden of proving by clear and convincing evidence that a person was improperly added to the Excluded Cannabis Employee List or an application for a Cannabis Employee Identification Card was improperly denied.

Section 9.09 Commission Decisions.

(a) All Commission decisions shall be made in accordance with the Act, including Section 13.05 of the Act.

(b) The Commission shall include with a final decision on the merits a statement that the Commission's decision is a "final decision subject to appeal", and such decision shall not be subject to rehearing before the Commission.

(c) The Commission shall review each decision of a hearing officer, designated under Subsection 13.04(b) of the Act, and shall have the authority to accept, amend or reject the findings of the hearing officer.

(d) The Commission shall make a good faith attempt to serve a copy of any Commission decision on the Petitioner or Petitioner's attorney by first class U.S. mail to the applicable last known address.

Section 9.10 Sanctions.

If Petitioner or Petitioner's attorney fails to comply with any Commission decision or order relating to a hearing, including regarding discovery or failure to appear at a hearing at the scheduled time, the Commission may, either *sua sponte* or upon the Presiding Officer's motion, impose appropriate sanctions for the noncompliance as the Commission deems to be just under the circumstances.

History

On November 14, 2022, the Commission gave the requisite notice of its intent to adopt these Regulations. On December 19, 2022, the Commission reviewed comments that were timely received. On January 9, 2022, through Resolution No. 23-01-09-01, the Commission approved: (1) the written record of the comments that were timely received; and (2) these Regulations, and such Resolution stated an effective date of January 9, 2022.