



MEMORANDUM

TO: Cannabis Regulatory Commission Board
FROM: Jeff Brown, Executive Director
SUBJECT: Consideration of Conditional License Application
DATE: October 27, 2022

EXECUTIVE SUMMARY

On August 19, 2021, the Cannabis Regulatory Commission (herein referenced as “Commission” or “CRC”) adopted rules pursuant to P.L. 2021, C.16 which established the licensure process for cannabis businesses and testing laboratories. N.J.A.C. 17:30-6 through 7 outlines the application process and requirements for both conditional license applicants and annual license applicants. The rules also include the eligibility requirements and limitations for Social Equity Businesses, Diversely-Owned Businesses, and Impact Zone Businesses.

This memo outlines the process and recommendation concerning 1 application for a conditional license. This conditional license application is for the approval for a Class 2 Manufacturer application which has been reviewed, scored, and is recommended for approval by the CRC Staff.

Pursuant to rules on cannabis business licensure, the CRC issued a Notice of Application Acceptance (“Notice”) on November 9, 2021, which outlined the specific criteria for each application type and the dates on which the CRC would begin accepting applications. The Notice of Application Acceptance also outlined the specific priority by which applications would be reviewed by the CRC.

On December 15, 2021, the CRC began accepting applications for Class 1 Cultivation, Class 2 Manufacturing, and Testing Laboratory licenses.

On March 15, 2021, the CRC began accepting applications for Class 5 Retailer licenses.

As of October 4, 2022, the CRC has received 1,360 applications, including:

- 374 Class 1 Cultivation Applications
- 212 Class 2 Manufacturing Applications
- 4 Class 3 Wholesaler Applications
- 10 Class 4 Distributor Applications
- 741 Class 5 Retailer Applications
- 10 Class 6 Delivery Applications
- 9 Testing Laboratory Applications



- 24 applications remain ineligible for license types submitted prior to their respective application acceptance date

Of the applications received:

- 953 Diversly-Owned Businesses (70%)
- 343 Social Equity Businesses (25%)
- 568 Impact Zone Businesses (41%)

Furthermore, of the applications received by October 4, 2022, 1,118 have been conditional license applications and 242 have been annual license applications.

Of the 1,360 applications received; 1,297 applications have begun the review process.

AUTHORITY

N.J.S.A. 24:6I-35(a)(1) provides that the Commission shall adopt rules and regulations, which include the procedures for the application for a license or conditional license to operate as a cannabis establishment. N.J.S.A. 24:6I-35(a)(4) requires the incorporation of the licensing social equity goals established by the Office of Minority, Disabled Veterans, and Women Cannabis Business Development. N.J.S.A. 24:6I-36 provides the Application process for a conditional license to operate a cannabis establishment. N.J.S.A. 24:6I-36(e) requires the Commission to prioritize applications on the basis of impact zones to advance social equity goals.

The governing regulations at N.J.A.C. 17:30-6.1(c)(2) state that the Commission shall provide notice of the initial acceptance of license applications in the New Jersey Register, on the Commission website, to the Commission email list, and at a Commission public meeting.

The governing regulations at N.J.A.C. 17:30-6.1(d) provide that the Commission shall review, score, and approve conditional and annual cannabis business license applications and issue licenses to applicants that receive a full score or greater, and shall have the full authority to establish the priority by which conditional and annual cannabis business license applications and applicants are reviewed, scored, approved, and issued, such that: 1. Social equity businesses, diversely owned businesses, and impact zone businesses always have priority over other license applicants; 2. Conditional license applicants always have priority over annual license applicants; 3. Microbusinesses license applicants always have priority over standard cannabis business license applicants; 4. License applicants given bonus points pursuant to N.J.S.A. 24:6I-36.d(2) have priority over license applicants with no bonus points; and 5. The priority of the review, scoring, and approval of license applications and issuance of licenses is consistent with meeting the market demands of the state, the Act and this chapter.



BACKGROUND

On August 19, 2021, the Commission adopted rules pursuant to P.L. 2021, C.16 which established the licensure process for cannabis businesses and testing laboratories. N.J.A.C. 17:30-7 outlines the application process and requirements for both conditional license applicants and annual license applicants.

The rules require the CRC to issue a Notice in the New Jersey Register that includes the application requirements for conditional and annual license applications. That Notice must include:

- Measures by which the license applicant will be scored;
- Maximum scores for each individual measure; and
- The total score required for a license applicant to be approved for a license.

On November 9, 2021, the CRC adopted a Notice in accordance with N.J.A.C. 17:30, Subchapters 6 and 7. That Notice was announced and approved at the CRC's November 9, 2021, public meeting, posted on the CRC's website, distributed to the CRC's email list, and was published in the New Jersey Register on December 6, 2021.

The Notice of Application Acceptance was updated twice to correct typos.

Pursuant to N.J.A.C. 17:30-6.1, in addition to the scoring measures and mandatory requirements for license applicants, the Notice also included a detailed list of application priority. Applications are reviewed in accordance 1) with the priority list included in the Notice and 2) in the order in time in which they are received.

The Notice can be found on the CRC's website.¹

In summary, the Notice of Application Acceptance:

- Prioritizes the review and scoring of Social Equity Business license applicants, which are businesses owned by individuals from Economically Disadvantaged Areas or who have past marijuana or hashish convictions, in both conditional and annual license categories;
- Prioritizes conditional license applicants over annual license applicants;
- Provides that microbusiness applicants are given priority in every category of license application; and

¹ New Jersey Cannabis Regulatory Commission – Notice of Application Acceptance for Personal-Use Cannabis Licenses.
<https://www.nj.gov/cannabis/documents/businesses/personal-use/Final%20Notice%20of%20Application%20Acceptance.pdf>

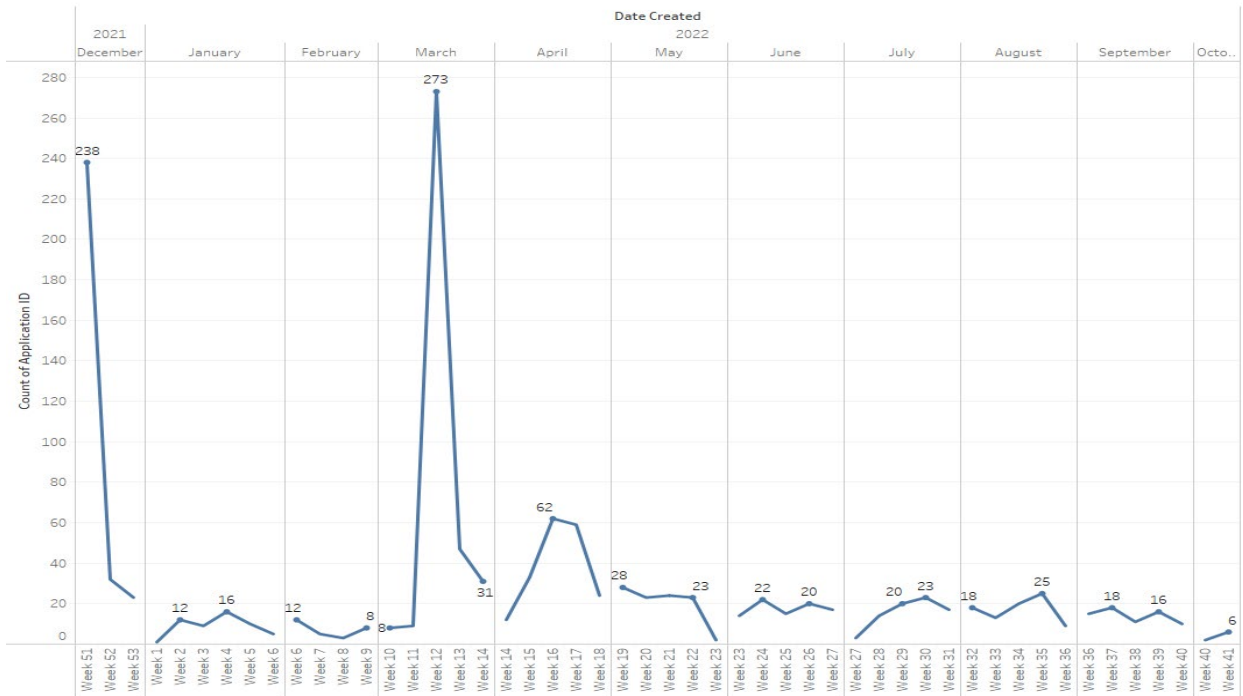


- Establishes pass/fail scoring criteria that comply with the statute and rules by which applications will be reviewed.

To allow the market to develop without arbitrary restrictions on growth, the Notice established no caps on the number of licenses available statewide, except where provided by law, and no geographic restrictions on the availability of licenses.

Following the adoption and publication of the Notice, the Commission began accepting applications on December 15, 2021, for Class 1 Cultivation Licenses, Class 2 Manufacturing Licenses, and Testing Laboratory Licenses. On the first day of applications, the CRC received 149 total applications. In the first month, the CRC received 314 applications. On March 15, 2022, the CRC began accepting applications for Class 5 Retailers.

Applications Over Time



APPLICATION AND BUSINESS CATEGORY OVERVIEW

N.J.S.A. 24:6I-33 and N.J.A.C. 17:30 establish several categories of cannabis business types and license applications that may be submitted and considered by the CRC.



First, applications can either be for conditional or annual licensure.

Second, a cannabis business can either be a standard sized business or a microbusiness. A microbusiness is limited to 2,500 square feet and ten employees.

Finally, license applicants may qualify as a Social Equity Business, a Diversely-Owned Business, or an Impact Zone business.

Conditional Licenses

Conditional licenses are temporary licenses that will be required to submit organizational and personal information to ensure they are compliant with the law, attest they will comply with a criminal background check, and provide a business plan and regulatory compliance plan. At the time of application, all owners with decision-making authority of the conditional license applicant will need to prove that they made less than \$200,000 in the preceding tax year, or \$400,000 if filing jointly.

If approved and issued a conditional license, a conditional license holder will then be required to have a permanent site for their business, gain control of the property through lease or purchase, gain municipal approval, and submit a conditional conversion application that includes standard operating procedures for the business, an environmental impact plan, a workforce development plan, and a security plan.

Importantly, conditional license holders are NOT authorized to cultivate, manufacture, sell or otherwise possess cannabis or cannabis items. Conditional license holders ARE authorized to move forward in the application process and submit to convert to a full annual license through an abbreviated application process.

Annual Licenses

Annual licenses are licenses that, once issued, authorize a license-holder to conduct the full range of activities allowed under the relevant statutes and rules. Applicants for annual licenses are required to submit a more detailed application that includes details for the proposed site for the business, which must be owned or leased, municipal approval, zoning approval, and an operating summary plan in which applicants detail their experience, history, and knowledge of critical pieces of operating a cannabis business.

Social Equity Businesses

Social Equity Businesses are a newly created type of business that is based on either economic need or having a criminal record that includes past marijuana-related offenses. Social Equity Businesses are either:



1. Owned by individuals who have lived in an Economically Disadvantaged Area, as defined by a zip code that has 80% or less of the average median household income in the state and has a health uninsured rate that is at least 150% of the health uninsured rate in the State.
2. Owned by individuals with previous marijuana-related convictions.

The list of Economically Disadvantaged Areas can be found on the CRC's website.²

Diversely-Owned Businesses

Diversely-Owned Businesses is an umbrella term used to describe businesses that are certified by the New Jersey Department of the Treasury as a minority-owned business, a woman-owned business, a disabled veteran-owned business, or any combination of the three.

Impact Zone Businesses

Impact Zone Businesses are businesses that are owned by individuals who have lived in an Impact Zone, are located within an Impact Zone, or plan to offer employment opportunities to residents of Impact Zones.

A list of Impact Zones can be found on the CRC's website.³

PRIORITY REVIEW OVERVIEW

The CRC's rules for personal-use cannabis establish a licensure process under which applications are reviewed on a rolling basis and sorted in accordance with the priority outlined in the rules and detailed in the Notice of Application Acceptance.

The current priority designation, which was followed for application reviews included in the is recommendation, is:

1. Social Equity Businesses, ordered by first in time, that:
 - a. Have submitted a conditional license application for a microbusiness;
 - b. Have submitted a conditional license application for a standard business;
 - c. Have submitted a conditional license conversion application;

² New Jersey Cannabis Regulatory Commission – Identifying Economically Disadvantaged Areas.
https://www.nj.gov/cannabis/documents/businesses/priority-applications/Identifying%20Economically%20Disadvantaged%20Areas_FINAL.pdf

³ New Jersey Cannabis Regulatory Commission – Identifying Economically Disadvantaged Areas.
<https://www.nj.gov/cannabis/documents/businesses/priority-applications/Impact%20Zones%20Abstract%20.pdf>



2. Diversely Owned businesses, ordered by first in time, that:
 - a. Have submitted a conditional license application for a microbusiness;
 - b. Have submitted a conditional license application for a standard business;
 - c. Have submitted a conditional license conversion application;
3. Impact Zone Businesses, ordered by first in time, that:
 - a. Have submitted a conditional license application for a microbusiness;
 - b. Have submitted a conditional license application for a standard business;
 - c. Have submitted a conditional license conversion application;
4. License applicants receiving bonus points pursuant to N.J.S.A. 24:6I-36.d(2) and the Notice, ordered by first in time, that;
 - a. Have submitted a conditional license application for a microbusiness;
 - b. Have submitted a conditional license application for a standard business;
 - c. Have submitted a conditional license conversion application;
5. All other applicants for conditional licenses, ordered by first in time, that:
 - a. Have submitted a conditional license application for a microbusiness;
 - b. Have submitted a conditional license application for a standard business;
 - c. Have submitted a conditional license conversion application;
6. Social Equity Businesses, ordered by first in time, that:
 - a. Have submitted an annual license application for a microbusiness;
 - b. Have submitted an annual license application for a standard business;
7. Diversely-Owned businesses, ordered by first in time, that:
 - a. Have submitted an annual license application for a microbusiness;
 - b. Have submitted an annual license application for a standard business;
8. Impact Zone Businesses, ordered by first in time, that:
 - a. Have submitted an annual license application for a microbusiness;
 - b. Have submitted an annual license application for a standard business;
9. License applicants receiving bonus points pursuant to N.J.S.A. 24:6I-36.d(2) and the Notice, ordered by first in time, that:
 - a. Have submitted an annual license application for a microbusiness;
 - b. Have submitted an annual license application for a standard business; and
10. All other applicants for annual licenses, ordered by first in time, that:
 - a. Have submitted an annual license application for a microbusiness;
 - b. Have submitted an annual license application for a standard business.

Under this system of application review, license applications are ordered first by their priority designation. For example, a conditional application for a microbusiness that qualifies as a Social Equity Business receives highest overall priority. Secondly, license applications are ordered by the time at which they submit. This means that when a conditional application for a microbusiness that qualifies as a Social Equity Business submits, they don't get ordered at the end of the overall line – they get ordered at the end of the line for priority group “1A”.



All license applications get reviewed, scored, and either approved, rejected, or denied – but some are done before others in accordance with this priority.

There are two points in the process when priority is assessed: 1) when the application is submitted and begins the review and scoring process; and 2) when the application review is complete, and it is deemed eligible for approval.

Between those two points, some applications may take longer to review so some lower priority applications may be deemed eligible for approval before higher priority applications, even though they began the process before the lower priority applications. But once a group of applications is deemed eligible for approval, overall priority is once again assessed, and approvals are done in accordance with that priority.

REVIEW PROCESS OVERVIEW: CONDITIONAL LICENSE APPLICATIONS

To review conditional license applications, the CRC has developed an application review process that aligns with the authorizing statutes, the CRC's regulations, and the Notice of Application Acceptance.

The process includes the following chronological steps:

1. **Priority Assignment** – Applications are assigned to their relevant priority level based on responses to questions on the application. This assignment occurs for all applicants after they submit their applications into the licensing system.
2. **Priority Verification** – Once assigned a priority, the applications are then reviewed to ensure the applicant has submitted the proper documentation to support their priority assignment. If they have submitted the documentation, they remain in queue to be reviewed. This includes a review of any materials submitted to qualify as a Social Equity Business, a Diversely-Owned Business or an Impact Zone Business. If they have not submitted proof to back up their priority designation, the application is marked for rejection and curing.
3. **Completeness Review** – Applications are reviewed for completeness to ensure everything required by the Notice is included in the application. If an application is deemed incomplete, it is marked for rejection and curing.
4. **Scoring** – Applications that have been deemed complete are then scored in accordance with the rubric in the Notice. For conditional license applications, this includes an evaluation of their Business Plan and Management Profile, their Regulatory Compliance Plan, and their Plan to Obtain Liability Insurance. Applications receive full points if they pass a



measure, and no points if they fail. Conditional applications need to score 100 pts in order to be advanced. If an application fails in scoring, it is marked for rejection and curing.

5. Qualification, Limitations, Financial/Management Agreement Review – Following scoring, conditional applications that have passed all three mandatory measures are then reviewed to ensure they are compliant with:
 - a. N.J.A.C. 17:30-6.8 (Limitations on license holders, owners, principals, pass investors, financial sources, management services contractors and vendor-contractors);
 - b. N.J.A.C. 17:30-6.9 (Management services agreements);
 - c. N.J.A.C. 17:30-6.10 (Financial source agreements); and
 - d. N.J.A.C. 17:30-7.4 (Conditional license holder qualification).
6. Quality Control – Any application that is deemed eligible for approval following a qualification review, is then given a quality control review to ensure that the determination is accurate.
7. Recommendation to the CRC Board – Applications that pass a quality control check are then recommended for approval to the board.

If an application is deemed incomplete, fails scoring, or is missing information required to qualify for priority designation, it is rejected and returned to the applicant to amend (“cure”) and resubmit. When an applicant resubmits, the application is placed in line for review again in accordance with its priority designation and the time at which it was resubmitted (“first in time”).

As of October 4, 2022, 1,072 cure letters have been issued for deficiencies on applications submitted.



RECOMMENDATION

This recommendation is for the approval of the below conditional application for a Class 2 Manufacturer application. This application has been reviewed and passed every step of the process.

No.	Applicant ID	Applicant Business Name	License Type	Business Category
1	1965	SVA NJ Services LLC	Manufacturer	Standard

This application has been deemed compliant with their priority designation, deemed complete, and scored for potential approval. It has also been reviewed for license-holder qualification provisions, for license-holder limitations, and any proposed financial source or management services agreements have received an initial review.

CRC staff have determined that the license application is eligible for approval by the CRC and that the license applicant is eligible to hold conditional licenses.

Therefore, CRC staff recommend the CRC Board **APPROVE** this application for conditional licensure. The CRC staff further recommends that approvals include the following required terms and conditions:

CONDITIONAL LICENSE CONDITIONS

1. Conditional licenses issued in accordance with this recommendation shall be automatically granted the additional 45 days allowed by statute to file a conditional conversion application, extending the conditional license phase to 165 days from the date of license issuance.
2. Conditional license-holders shall comply with all relevant provisions of N.J.A.C. 17:30-6 through 7 regarding conditional licenses, license-holders, and the conditional license phase.
3. If issued a conditional license as a Social Equity Business, Diversely-Owned Business or Impact Zone Business, maintaining eligibility as such is a condition of the license and a condition of seeking an annual license through a conditional conversion application.
4. Conditional license-holders may add new owners in the conditional license phase, however, 51% or a majority of the ownership shall remain with the owners that qualified for the conditional license.
5. Conditional license-holders shall provide an attestation certifying that they will submit to a criminal history background check. No license holder or license applicant shall be granted an annual license without submitting to a criminal history background check and



satisfactorily demonstrating that all statutory and regulatory requirements have been satisfied.

6. Conditional license holders are NOT authorized to cultivate, manufacture, sell or otherwise possess cannabis or cannabis items.