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NMRLD

**NEW MEXICO
REGULATION &
LICENSING DEPARTMENT**

2022 State-Tribal Collaboration Tribal Act Annual Report



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EXECUTIVE SUMMARY

OVERVIEW

The New Mexico Regulation and Licensing Department (NMRLD) is continuously striving to address the concerns that impact all New Mexicans. This includes the state's Native American population, living both on and off tribal lands. NMRLD's priorities in strengthening collaborative partnerships with New Mexico Indian Tribes.

EMPOWERING THE VITALITY OF NEW MEXICO ENTERPRISE. OUR MISSION

To promote public confidence in professional, occupational services, trades, and industries by finding innovative solutions for business in the interest of public safety and economic vitality.

OUR VALUES

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

OUR GUIDING VALUES

- Quality customer service
- Accuracy and accountability
- Respect and recognition for the Indigenous People

WHO WE ARE

When visiting a dentist for a cleaning, sitting in the barber's chair for a trim or trying to read the alphabet chart for an eye exam, you may take for granted the qualifications of professionals providing these services, but the New Mexico Regulation & Licensing Department does not.

NMRLD is in the business of ensuring that New Mexicans receive quality care and services from qualified individuals and businesses in 35 different industries, professions, and trades. We touch everyday activities of every New Mexican, while ensuring fair and prompt administrative processes to help spur economic development.

WHAT WE DO

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

Alcoholic Beverage Control Division regulates the manufacture, transportation, distribution, sales, service, and public consumption of alcoholic beverages by licensing establishments and the alcohol servers who sell or serve alcohol to the public. Our goal is to protect the health, safety, and welfare of the citizens of and visitors to New Mexico while allowing for responsible economic growth.



Boards and Commissions Division oversees more than 30 different professions and trades, from accounting to funeral services. We issue licenses, provide for continuing education, inspect licensed premises, and investigate complaints.

Cannabis Control Division regulates and licenses cannabis producers, manufacturers, retailers, couriers and testing and research laboratories operating in the medical and adult-use market to ensure public health and safety.

Construction Industries and Manufactured Housing Division licenses contractors and certifies journeymen in the building trades; issues permits for residential and commercial construction; and conducts field inspections to confirm that the work meets state standards. It also oversees manufacturers, dealers, brokers, salespersons, installers, and repairmen of manufactured housing units.

Financial Institutions Division regulates state-chartered banks, savings and loans, credit unions, trust companies, escrow companies, collection agencies, endowed care cemeteries, small loan and motor vehicle finance companies, mortgage lenders and loan brokers, and money service businesses.

Securities Division - licenses broker-dealers, financial advisers and other investment professionals; registers certain securities offered in New Mexico; investigates securities fraud, as well as providing education and training about securities laws and investment issues.

Programs:

Carnival Rides - requires that carnival rides be inspected for safety and carry insurance

Crane Operators Safety Program – regulates the crane industry

Employee Leasing - requires that employee leasing companies be bonded and registered

Recycled Metals – regulates the recycled metal industry

AGENCY-SPECIFIC AND APPLICABLE/RELEVANT STATE OR FEDERAL STATUTES OR MANDATES

The New Mexico Regulation and Licensing Department has no jurisdiction, regulatory or enforcement authority on tribal lands. Specific examples are listed below:

The New Mexico Liquor Control Act, respecting tribal and pueblo sovereignty, has divested the Alcoholic Beverage Control Division from jurisdiction, regulatory or enforcement authority on tribal lands.

Liquor Control Act exemptions specified in §60-3A-5 “nothing in the Liquor Control Act [60-3A-1 NMSA 1978] applies to: ...(D) the sale, service, possession or public consumption of alcoholic



beverages by any person within the boundaries of lands over which an Indian nation, tribe or pueblo has jurisdiction, if the alcoholic beverages are purchased from New Mexico wholesalers and if the sale, service, possession or public consumption of alcoholic beverages is authorized by the laws of the Indian nation, tribe or pueblo having jurisdiction over those lands and is consistent with the ordinance of the Indian nation, tribe or pueblo certified by the secretary of the interior and published in the federal register according to the laws of the United States.”

Cannabis Regulation Act Tribal Relations specified by the Cannabis Regulation Act, 26-2C-41. Indian Nations, Tribes and Pueblos; intergovernmental agreements.

A. The department may enter into one or more intergovernmental agreements with any tribal government to efficiently coordinate the cross-jurisdictional administration of the laws of this state and the laws of tribal governments relating to the use of cannabis products set forth in the Cannabis Regulation Act and the Lynn and Erin Compassionate Use Act. The agreements may include, without limitation, provisions relating to:

- (1) criminal and civil law enforcement;
- (2) regulatory issues relating to the possession, delivery, production, processing or use of cannabis products;
- (3) the administration of laws relating to taxation;
- (4) any immunity, preemption or conflict of law relating to the possession, delivery, production, processing or use of cannabis products; and
- (5) the resolution of any disputes between a tribal government and the state, which may include, without limitation, the use of mediation or other nonjudicial processes.

B. An agreement entered into pursuant to this section shall:

- (1) provide for the preservation of public health and safety;
- (2) ensure the security of cannabis establishments and the corresponding facilities on tribal land;
- (3) establish provisions regulating business involving cannabis that passes between tribal land and nontribal land in New Mexico; and
- (4) be negotiated in good faith, which shall respect and protect state and tribal sovereign immunity.

C. As used in this section, "tribal government" means a federally recognized Indian nation, tribe or pueblo located wholly or partially in the state.

Construction Industries Licensing Act (CILA) Section 60-13-1, et seq., NMSA 1978 gives the Construction Industries Division (CID) regulatory authority to license contractors and enforce the New Mexico building codes. The codes do not apply to construction on tribal lands unless the tribes choose to come under CID jurisdiction. This is also true for the Manufactured Housing Act at Section 60-14-1, et seq., NMSA 1978.



SIGNIFICANT STATE-TRIBAL ISSUES, RECOMMENDATIONS AND/OR PRIORITIES ADDRESSED IN FY 22

Boards and Commissions – Pharmacy Board

The Board of Pharmacy continues to provide access to its Prescription Monitoring Program to the Indian Health Services (IHS) Health Care Practitioners in a joint effort to reduce controlled substance abuse. IHS is not required to provide information to the Pharmacy Board.

Cannabis Control Division (CCD)

NMRLD has assembled the Cannabis Regulation Advisory Committee comprised of various members representing different populations affected by the implementation of cannabis legalization. One of the seats in the Advisory Committee is reserved for a representative of an Indian nation, tribe, or pueblo. The Committee will advise the CCD in its rule promulgation process to ensure concerns by Indigenous communities are considered in the rulemaking process. This seat is currently held by a member of the Santa Ildefonso Pueblo. In addition, the CCD is in the process of creating an additional task force made up of tribal members. This task force will explore cannabis related issues that may affect Indian nations. The findings of this task force will be used in rule promulgation, similar in function to the Cannabis Regulatory Advisory Committee. The CCD entered intergovernmental agreements between NMRLD, Picuris, and Pojoaque to ensure appropriate implementation of the Cannabis Regulation Act with these tribes.

Financial Institutions Division – Financial Literacy

The Financial Institutions Division, in collaboration with an outside consultant, continues to provide financial education outreach. The major components of the financial literacy program center around budgeting, credit development, financial decision making, and understanding different types of financing options. The initial launch of the program was intended to include tangible workbook materials along with online courses and podcasts. Online courses and podcasts continue to be deployed.

Securities Division- Consumer Protection and Investor Education

In collaboration with the Financial Institutions Division, the Securities Division continues to educate and prepare Native investors so that they can protect themselves from financial fraud and learn about strategies to grow their assets through sound investments. This is accomplished through seminars, media outreach and presentations made on tribal lands.



MAIN AGENCY ACCOMPLISHMENTS AND CHALLENGES REGARDING TRIBES, AI/AN AND/OR INDIAN ORGANIZATIONS

NMRLD can offer inspection, regulatory services, and technical advice to tribes, but the agency has no jurisdiction, regulatory or enforcement authority on tribal lands. To find out more about the New Mexico Regulation & Licensing Department and the services we offer, please visit our website at: www.rld.nm.gov

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AGENCY POLICY PROMOTING STATE-TRIBAL RELATIONS

Policy Timeline- Recommendation

The NMRLD timeline for the development, review and adoption of the agency policy is subject to the cluster approach of the policy template. The agencies involved in the cluster of Commerce and Industry are: EDD, TD, DOT, DWS, RLD and EXPO. The agency liaison or representative will communicate with these agencies in order to conduct a meeting of the liaisons to review, make recommendations and draft a template policy for the cluster. This cluster approach seeks to identify a generic policy covering appropriate agencies with some consistency and general commonalities.

AGENCY EFFORTS TO IMPLEMENT POLICY

Every division of NMRLD stands ready and available to collaborate with tribes and tribal liaisons in order to allow for government to government cooperation. Since the agency has no jurisdiction on tribal lands, collaboration will occur upon request of tribal leaders.



GOALS RELATING TO TRIBES, AI/AN AND/OR INDIAN ORGANIZATIONS FOR FY22

Alcoholic Beverage Control Division

Opportunities for Collaboration

Over the years the Alcoholic Beverage Control Division has offered technical advice and assistance to tribes and pueblos who administer alcohol to strive for increased consistency in the regulatory environment. ABC staff regularly communicates with their counterparts in Indian Country on a variety of alcohol related issues.

Cannabis Control Division

Increased Tribal Involvement

In addition to the seat on the Cannabis Regulatory Advisory Committee reserved for a member of an Indian nation, tribe or pueblo, the Division seeks to engage Indian Country by creating an additional task force made up of tribal members. This task force will look in-depth into cannabis related issues that may affect Indian nations. The findings of this task force will be used in rule promulgation, similar in function to the Cannabis Regulatory Advisory Committee.

Construction Industries Division and Manufactured Housing Division

Tribal Building Programs

Tribal governments intending to form building programs are welcome to collaborate with the state Construction Industries Division and the Manufactured Housing Division. Such programs could be designed to comprise the tribal housing authority for federal HUD construction, a traditional construction component, and a component to administer modern commercial and non-HUD residential construction as well as manufactured housing. Such a program would be administered by tribal personnel, including one or more inspectors, and such inspectors would be eligible to attend CID and MHD-sponsored trainings. The divisions are always available to respond to questions and educate regarding building construction and the building codes. Previously when asked the divisions to have assisted and collaborated with different pueblos particularly regarding explanations of building codes and standards. While this hasn't occurred during the pandemic, the divisions remain open to providing, when asked, technical building construction assistance.

Boards and Commissions Division

Recommendation #1. Expand Opportunities for Collaboration with Athletic Commission

NMRLD currently has a Memorandums of Understanding between Boards and Commissions Division's Athletic Commission and four tribes, including Isleta, Mescalero Apache, Laguna, and Tesuque. NMRLD would look to expand opportunities for collaboration with other Indian Nations, tribes or pueblos.

The Boards and Commissions Division's goal would be to ensure that a Memorandum of Understanding is in place for any event held on tribal land that would otherwise be regulated by the Athletic Commission.



Recommendation #2: Opportunities for Collaboration with Other Regulated Professions and Events

The Boards and Commissions Division inspects tattoo establishments and tattoo conventions across the state, which are regulated by the Board of Body Art Practitioners. In the last couple of years there has been an increase in tattoo (body art) conventions being held within tribal lands, some have been held at several casinos in which the Division is unsure whether inspections are taking place. These conventions, and other similar which are subject to professional and occupational regulations of the state, should be monitored by the Division to ensure that the visiting public is protected through appropriate sanitation and safety inspections. In order to conduct such inspections, the Division would need to be made aware of the events and MOUs would be required.

Financial Institutions Division

Recommendation #1: Full Service Banking Centers

Should tribal government(s) decide to increase the availability of banking services in remote tribal areas, the state Financial Institutions Division could advise or assist with regulatory issues such as the availability of deposit insurance. If a tribal governing body becomes interested in having a branch of a state bank on tribal lands or to open a bank, the Financial Institutions Division is able to *offer guidance on compliance matters*.

Recommendation #2: Reduce Predatory Lending

Native Americans can be frequent victims of predatory lending in the form of payday, car title, tax refund and installment loans. In part this is due to the scarcity of traditional lending institutions on and around tribal land. FID has supported numerous efforts to enhance the statutory prohibitions on predatory lending practices and will continue to do so in the future.

CURRENT AND PLANNED PROGRAMS AND SERVICES FOR AMERICAN INDIANS/ALASKA NATIVES

N/A

TRAINING AND EMPLOYEE NOTIFICATION

Training of department personnel will be addressed following the release of training and certification material and curriculum by SPO as identified in Section 4-C-4 of the Act. Training and employee notification will be addressed via interagency memorandums directed by the Superintendent through division directors.



STCA TRAINING CERTIFICATION

Please see above.

EMPLOYEE NOTIFICATION ABOUT STCA

Employee notification will occur via interagency memorandum to NMRLD personnel through the Office of the Superintendent.