



Missouri Department of Health and Senior Services

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AMENDED NOTICE OF PENDING REVOCATION

September 1, 2023

Delta Extraction, LLC, MAN000022
Ms. Rachael Herndon
5281 Willow Ford Rd
Robertsville, MO 63072, MO



Subject: Amended Notice of Pending Revocation

Dear Ms. Herndon,

Pursuant to 19 CSR 100-1.020(3)(G)^{1, 2}, the Division of Cannabis Regulation (DCR), Section for Compliance and Enforcement is issuing Delta Extraction, LLC, MAN000022 a *Notice of Pending Revocation*. The revocation will not take effect until at least 30 days from the date of this notice. During the 30-day period, the Licensee will have the opportunity to respond to the allegations in this notice and submit records or information demonstrating why the license should not be revoked. At the end of the response period, DCR will notify the Licensee whether the license is revoked, other penalties are issued, or the Notice of Pending Revocation is withdrawn.

The basis for the pending revocation is as follows:

1. MAN000022 has failed to ensure that all marijuana product sold in Missouri originated from marijuana grown and cultivated in a licensed cultivation facility located in Missouri, as detailed in paragraphs 2 – 4 below, which is a violation of 19 CSR 100-1.100(4)(I)³ and cause for revocation pursuant to 19 CSR 100-1.020(3)(A).
2. MAN000022 has failed to ensure that all tetrahydrocannabinol (“THC”) in marijuana product is derived from marijuana cultivated by a Missouri licensed cultivator, which is a violation of Emergency Rule 19 CSR 100-1.170(2)(E) and 19 CSR 100-1.170(2)(E) and cause for revocation pursuant to 19 CSR 100-1.020(3)(A). For example: From February 2023 to August 1, 2023, MAN000022 has manufactured marijuana products using THC derived from cannabis that did not originate in a Missouri licensed cultivation facility.
3. MAN000022 has failed to comply with seed-to-sale tracking requirements and intentionally falsified seed-to-sale tracking data, which is cause for revocation pursuant to 19 CSR 100-1.130(2)(E)2. For example:
 - a. On July 24, 2023, Delta Extraction created Metrc package tag #1A40C03000044C1000004482 by processing 1,385.47 grams of distillate from Metrc package tag #1A40C03000044C1000002544 into 99,910 grams of distillate. The source material was distillate and the product created was more distillate. This is a clear indication of inversion.
 - b. On June 8, 2023, Delta Extraction processed 152,406.5 grams of bud/flower into 31,900 grams of bulk crude to create Metrc package tag #1A40C03000044C1000003046 (#3046). This Metrc package tag is the source package for the four (4) Metrc package tags listed below. Metrc data shows that the Licensee created 1,420,680 grams of distillate from 31,900 grams of bulk crude.

¹ All citations referenced in this document refer to the current rules, which took effect on July 30, 2023. Emergency rules were in effect from February 3 – July 29, 2023. All violations referenced in this document were violations under both the emergency rules and the current rules. Citations are consistent between the emergency rules and current rules, except where otherwise identified herein by footnote.

² See Emergency Rule 19 CSR 100-1.020(3)(E).

³ See Emergency Rule 19 CSR 100-1.100(4)(F).

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The Missouri Department of Health and Senior Services' vision is optimal health and safety for all Missourians, in all communities, for life.

When producing distillate from a concentrate, the weight will always decrease rather than increase. This is a clear indication of inversion.

- i. On June 4, 2023, Delta Extraction created Metrc package tag #1A40C03000044C1000003047 (#3047) by processing 2,000 grams of bulk crude from #3046 into 216,150 grams of distillate. Based on the information in Metrc, #3047 was created prior to #3046 being created. Additionally, #3047 was reported in Metrc on June 8, 2023 at 10:32am, three (3) minutes after the source package #3046 was reported into Metrc.
 - ii. On June 20, 2023, Delta Extraction created Metrc package tag #1A40C03000044C1000003411 (#3411) by processing 2,000 grams of bulk crude from #3046 into 359,352 grams of distillate.
 - iii. On July 24, 2023, Delta Extraction created Metrc package tag #1A40C03000044C1000004479 (#4479) by processing 2,000 grams of bulk crude from #3046 into 355,017 grams of distillate.
 - iv. On July 29, 2023, Delta Extraction created Metrc package tag #1A40C03000044C1000004636 (#4636) by processing 25,900 grams of bulk crude from #3046 into 490,161 grams of distillate.
 - c. On February 2, 2023, Delta Extraction processed 5 grams of sap concentrate into 200,000 grams of distillate to create Metrc package tag #1A40C01000044C1000005781 (#5781). When producing distillate from a concentrate, the weight will always decrease rather than increase. This is a clear indication of inversion.
 - d. On November 7, 2022, Delta Extraction created Metrc package tag #1A40C01000044C1000003539 (#3539) using 5 grams of distillate that was originally sourced from Metrc tag #0001 to create 130,000 grams of Conte Distillate. The Licensee notes in the statewide track and trace system that Metrc tag #3539 is mixed with Conte CBD Distillate. The Licensee is attempting to provide an explanation for the increase in weight from 5 gram to 130,000 grams by noting that CBD is being added to the distillate. However, Metrc records include R&D/voluntary test results by two different certified testing licensees showing that there is nominal CBD found in the distillate tested. Testing results show the CBD potency is extremely low for 130,000 grams of product that should include 129,995 grams of CBD, and the THC potency is very high for 130,000 grams of product that should include only 4 grams of THC: CBD (2.42;ND mg/g); THC (883.24;792.29 mg/g). This is a clear indication of inversion.
 - e. On March 25, 2022, 1,100 grams of atomic cherry distillate was taken from Metrc tag 1A40C01000044C1000000003 (#0003). Vape cartridges containing 1 gram of distillate each were made from the 1,100 grams of distillate to make package #1A40C01000044C1000000013 (#0013). Later the same day, the number of vape cartridges in #0013 was adjusted up in Metrc by 2,900 with the Metrc reason of "typing error" and a note by Licensee stating "recount". It is not possible to create 4,000 1 gram vape cartridges from 1,100 grams of distillate. This is a clear indication of inversion.
 - f. On December 15, 2021, Delta Extraction Metrc package tag #1A40C0100000835000001033 (package #1033) contained 2,928 grams of bud/flower material. On March 14, 2022, Metrc shows Delta Extraction processed the 2,928 grams of bud/flower from package (#1033) into 223 grams of concentrate. The 223 grams of concentrate was then assigned package #1A40C01000044C1000000001 (package #0001). On March 15, 2022, 4 grams of concentrate were used from package #0001 to create package tag 1A40C01000044C1000000003 (#0003), and the amount of distillate increased from 4 grams to 38,698 grams for an increase of 38,694 grams. When producing distillate from a concentrate, the weight will always decrease rather than increasing significantly. This is a clear indication of inversion.
4. MAN000022 has failed to ensure all product in its facility is traceable in the statewide track and trace system at all times, which is a violation of 19 CSR 100-1.130(1)(E) and cause for revocation pursuant to 19 CSR 100-1.130(2)(E)2. For example:
- a. Marijuana product including biomass and flower mixed with water did not have traceability information;
 - b. Four (4) pallets with boxes that were shrink wrapped together containing approximately five (5) jars each with approximately 1,000 grams of THC distillate in each jar for a total of approximately 1.056 million grams (2,328 pounds) of THC distillate did not have traceability information;

- c. Two (2) silver totes containing 7,700 vape cartridges with THC product did not have traceability information. In one (1) tote, some of the vape cartridges included the Conte logo; and
 - d. One (1) pallet with twenty-one (21) boxes containing approximately 16,800 THC vape cartridges did not have traceability information. The boxes were wrapped in shipping cellophane located in the shipping area of Delta Extraction. UPS tracking tags located on the boxes have shipping labels from Shipping Department SZ, 5701 Fresca Dr. Suit A, La Palma, CA. 90623. To Nancy McCumber 1-(405) 293-8934, Dauntless Health, LLC. 3105E Reno, Ave, Oklahoma City, OK. 73117. No shipping information or manifest documents in Metrc indicate how these boxes of THC products came to Delta Extraction from Oklahoma. The boxes were sealed with tape and opened by DHSS staff to collect samples for testing.
 - e. Three (3) twenty- (20-) tier industrial bakers racks filled with trays of THC gummies did not have traceability information. There was no identifying information around these THC gummies other than the word "watermelon" and a post it note with "#1";
 - f. Physical Metrc tags within the facility were altered to the extent that information is not reliable;
 - g. The location of marijuana product was not accurately identified in Metrc.
5. Due to extensive falsification of tracking data, MAN000022 has also failed to ensure all marijuana product from its facility is compliantly tested before transfer to a dispensary facility, which is a violation of 19 CSR 100-1.170(2)(B) and cause for license revocation pursuant to 19 CSR 100-1.020(3)(A). Testing relies on accurate process lot records and unaltered process lot amounts in order for testing of a sample to be representative of the entire process lot.
 6. Due to extensive falsification of tracking data, MAN000022 has also packaged marijuana in a false and misleading manner, which is a violation of 19 CSR 100-1.120(1)(A) and cause for license revocation pursuant to 19 CSR 100-1.020(3)(A). Accuracy of packaging labels relies on compliant testing and trustworthy testing results.
 7. MAN000022 has failed to maintain security of marijuana product and the facility by failing to comply with required security measures and failing to maintain required security equipment, which is a violation of 19 CSR 100-1.090 and cause for license revocation pursuant to 19 CSR 100-1.020(3)(A). Specifically:
 - a. The Licensee did not receive or failed to act upon the failure notification system required by 19 CSR 100-1.090(1)(C)9 that provides notice of a failure in the electronic video monitoring system;
 - b. The Licensee has failed to comply with 19 CSR 100-1.090(1)(A) by failing to have or maintain devices or a series of devices to detect unauthorized intrusion.
 - c. The Licensee has failed to comply with 19 CSR 100-1.090(1)(C)2 by failing to maintain remote access connection.
 - d. The Licensee has failed to comply with 19 CSR 100-1.090(1)(C)3 by failing to have electronic video monitoring of the facility in all required areas. For example: the Licensee was using unapproved areas of the facility, where electronic video monitoring had not been inspected or was non-existent.
 - e. The Licensee has failed to comply with 19 CSR 100-1.090(1)(C)8 by failing to store video camera recordings for at least sixty (60) days in a secure location or through a service or network.
 - f. The Licensee has failed to comply with 19 CSR 100-1.090(1)(D) by failing to have or maintain controlled entry to limited access areas, including maintaining records of entry for at least one (1) year.
 - g. The Licensee has failed to comply with 19 CSR 100-1.090(1)(E) by failing to have a method of immediate, automatic notification to alert local law enforcement agencies of an unauthorized breach of security at the facility.
 - h. The Licensee has failed to comply with 19 CSR 100-1.090(1)(H) by failing to have windows, within the limited access areas, designed to prevent intrusion.
 - i. The Licensee has failed to comply with 19 CSR 100-1.090(2)(E) by failing to take timely action to verify the security of marijuana product and the facility after receiving multiple unauthorized intrusion alarms for the office; office window open/closed, window tamper, office door open/closed, and motion within the office.
 8. MAN000022 has failed to comply with 19 CSR 100-1.030(3)(A)2 and 19 CSR 100-1.090 as the Licensee did not make DCR aware of the addition of a shipping container to the facility and changed the use of spaces without approval, which includes using the hallway for storage of marijuana product and using the area designated as the storage room for ethanol extraction. These areas were being utilized by the

Licensee without the required notification, inspection and approval by DCR to determine if the space is in compliance with 19 CSR 100-1, including critical security requirements.

Pursuant to 19 CSR 100-1.020(3)(G)⁴, the Licensee has thirty (30) days from the date of this letter, which is October 2, 2023, to respond to the allegations in this notice and submit records or information demonstrating why the license should not be revoked. During that same time period, the Licensee may request a conference call with the Department to present any evidence as to why the license should not be revoked.

A response should include any information the Licensee believes is relevant to whether the violations described above occurred. If the Licensee is unable to show through its response to the satisfaction of the Department that the violations described above did not occur, the license may be revoked without further notice.

For questions or additional information regarding this notice, or to request a conference call, please reach out to DCR at CannabisComplaints@health.mo.gov. The Department will only accept questions and responses related to this notice in writing.

Thank you for your attention to this matter.

Andrea Balkenbush, Deputy Director
Division of Cannabis Regulation
Department of Health and Senior Services

cc: Joshua Stockman, Bureau of Investigation & Enforcement, Manager
Kourtney Blomberg, Investigation Supervisor
Chelsea Gibbs, Investigation Supervisor
Sarah Burch, Bureau of Business Licensing Services, Manager
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⁴ See Emergency Rule 19 CSR 100-1.020(3)(E).