

NOTICE OF PROPOSED RULE HEARING

Public Hearing. The New Mexico Regulation and Licensing Department (RLD), Cannabis Control Division (CCD), will hold a public rule hearing on September 3, 2025, at 9:00 am. The rule hearing will be held at the Rio Grande Conference Room in the Toney Anaya State Office Building located at 2550 Cerrillos Road, Santa Fe, New Mexico. The hearing will be live-streamed via Internet-based video and via telephone for those wishing to observe the hearing. Individuals wishing to participate and offer comment on the proposed rules will appear in-person at the hearing location. A PDF of the proposed rule and meeting details may be accessed through the Cannabis Control Division website: <https://www.rld.nm.gov/cannabis/> or from Victoria Kaniatobe at the contact information listed below.

Purpose of Rule Hearing. The purpose of the public rule hearing is to receive public commentary regarding the proposals for amendments to rules as described below.

Any technical information used to inform the proposed rules will be accessible by visiting:
<https://www.rld.nm.gov/cannabis/>.

Statutory Authority. Legal authority for this rulemaking may be found the Cannabis Regulation Act (CRA), Section 26-2C-1 through Section 26-2C-42 NMSA 1978 (2021). Additional authority may be found at Section 9-16-6 NMSA 1978 (2021).

Public Comment. The CCD will begin accepting written public comments on the proposed rules beginning July 29, 2025. Please submit written comments on the proposed rules to Bradford A. Borman, Attorney for the Cannabis Control Division, via electronic mail at ccd.publiccomment@state.nm.us. Written comments may also be submitted by visiting the CCD website at <https://www.rld.nm.gov/cannabis/> or by mailing the comment to the following address:

Cannabis Control Division Public Comment
c/o Bradford A. Borman
P.O. Box 25101
Santa Fe, NM 87504

All public comments must be received by the close of the public rule hearing on September 3, 2025, Persons will also be given the opportunity to present their comments at the rule hearing. Comments received prior to the rule hearing will be posted to the RLD website at: <https://www.rld.nm.gov/cannabis/>.

No later than July 29, 2025, interested parties may obtain and review copies of the proposed rules and public comments by going to the Cannabis Control Division website at <https://www.rld.nm.gov/cannabis/> or by contacting the Cannabis Control Division at RLD.CannabisControl@rld.nm.gov or (505) 476-4995.

Any individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or other form of auxiliary aid or service to attend or participate in the hearing should contact Victoria Kaniatobe, Legal Clerk for the Cannabis Control Division at Victoria.Kaniatobe@rld.nm.gov or (505) 476-4577 at least seven (7) days prior to the hearing.

The Cannabis Control Division (CCD) of the New Mexico Regulation and Licensing Department (RLD) is proposing to create New Mexico Administrative Code (NMAC) rule 16.8.9 NMAC, *Embargo, Recall and Seizure of Cannabis* as directed by House Bill 10 of the 2025 Legislative Session.

The CCD is proposing to create the rule as follows:

The proposed new rule establishes procedures and licensee responsibilities related to the embargo, recall, seizure,

and condemnation of cannabis and cannabis products. It outlines the CCD's authority to restrict movement of cannabis, issue mandatory recalls, coordinate with law enforcement on seizures and pursue administrative or judicial actions to ensure public health and regulatory compliance. The rule sets standards for applicant and licensee cooperation during investigations, defines conditions and protocols for product holds and destruction, and includes due process protections through notice and hearing procedures. It also establishes detailed inventory management and tracking requirements during enforcement actions, including mandatory tagging, segregation, and secure storage of embargoed or recalled products. Licensees are required to maintain inventory continuity, audit trails, and camera surveillance of affected products, and are prohibited from any unauthorized movement, alteration, or sale. The rule also mandates written procedures for voluntary recalls, immediate notification to the CCD, and thorough documentation of all actions taken.

Summary of Proposed Amended Rules.

16.8.1.7 Definitions

- Adds definition of "audited product".
- Adds definition of "deli-style".
- Adds definition of "flowering".
- Adds definition of "inhaled product".
- Adds definition of "mature plant".
- Adds definition of "oral consumption".
- Adds definition of "representative sample".
- Adds definition of "skin and body product(s)".

16.8.1.11 Cannabis Regulatory Advisory Committee Meetings

- Clarifies that meetings of the Cannabis Regulatory Advisory Committee may be held remotely at the discretion of the Superintendent of the Regulation and Licensing Department.

16.8.2.8 General Operational Requirements for Cannabis Establishments

- Prohibition against licensees providing free non-medical cannabis moved from 16.8.2.40 NMAC.

16.8.2.11 Recall of Cannabis

- Removes section in its entirety, as the new proposed section 16.8.9 NMAC provides regulations related to the recall of cannabis.

16.8.2.12 Chain of Custody

- Modifies the information required of licensees related to chain of custody documentation.

16.8.2.13 Requirements for the Transportation of Cannabis

- Clarifies shipping manifest documentation required of licensees related to the transport of cannabis products.

16.8.2.20 Monitoring of Licensee

- Adds requirement for licensees to maintain complete and accessible personnel records for all workers, including employees and contractors, for at least two (2) years after separation.
- Eliminates the requirement that licensees submit a biennial audit to the CCD.

16.8.2.21 Cannabis Producer Licensure; General Provisions

- Removes reference to Subsection BB of 16.8.2.8 NMAC, which does not exist.

16.8.2.22 Application Requirements for Cannabis Producer License

- Adds requirement for applicants and licensees to provide proof of lawful possession of the proposed or licensed premises through ownership or a completed property owner acknowledgment form.

16.8.2.27 Minimum Requirements for the Production of Cannabis

- Corrects referenced rule for cannabis waste procedures.

16.8.2.29 Cannabis Manufacturer Licensure; General Provisions

- Clarifies that licensed manufacturers may only conduct activities authorized for the class for which they are licensed.
- Clarifies that restriction on manufacturing without a license encompasses all cannabis products.
- Modifies the prohibited additives to cannabis products and separately addresses products for oral consumption.

16.8.2.30 Application Requirements for Cannabis Manufacturer License

- Removes topicals from the requirement to obtain authority from the New Mexico environment department.
- Adds requirement for applicants and licensees to provide proof of lawful possession of the proposed or licensed premises through ownership or a completed property owner acknowledgment form.

16.8.2.34 Minimum Standards for the Manufacture of Cannabis Products

- Adds clarity regarding requirements for manufacturing I licensees engaging in deli-style transactions at a co-located common ownership retail license.
- Clarifies restrictions on cannabis conversions.

16.8.2.36 Application Requirements for Cannabis Retailer Licensee

- Adds requirement for applicants and licensees to provide proof of lawful possession of the proposed or licensed premises through ownership or a completed property owner acknowledgment form.

16.8.2.40 Minimum Standards for Retail of Cannabis Products

- Removes prohibition on sale or consumption of cannabis products removed from packaging for display.
- Prohibition against licensees providing free non-medical cannabis moved to 16.8.2.11 NMAC.
- Clarifies delivery of cannabis products to consumers is to be made only by licensed cannabis couriers, exclusively to residential addresses.

16.8.2.41 Cannabis Courier Licensure; General Provisions

- Identifies approved sources of payment for cannabis delivery as any legal method of payment including gift card pre-payments but excluding Electronic Benefits Transfer Services Card.
- Reduces maximum retail value of cannabis allowed in a courier vehicle to five thousand dollars (\$5,000).
- Adds clarity regarding intervals for cannabis delivery to consumers.

16.8.2.43 Cannabis Testing Laboratory License; General Provisions

- Clarifies that individuals with an interest in or employed by a cannabis establishment may not also hold an interest, invest in or be employed by a cannabis testing lab.

16.8.2.44 Application Requirements for Cannabis Testing Laboratory License

- Adds requirement for applicants and licensees to provide proof of lawful possession of the proposed or licensed premises through ownership or a completed property owner acknowledgment form.

16.8.2.45 Submittal of Application for Amended Cannabis Testing Laboratory License

- Reorganizes the rule to clarify a material or substantial modification of the premises as:
 - an increase or decrease in size;
 - a sale of the property used for the testing laboratory;
 - the purchase of additional property for the laboratory; or
 - a change in the laboratory's location.
- Identifies requirements for approval of a material or substantial change in testing methods
 - Includes change in the type of instrument used in testing for required analyte
 - Limits material or substantial changes to testing methods to once a year at time of license renewal
 - Requires submission of any information representing material or substantial change and an initial demonstration of capability for any new or materially changed testing method.

16.8.2.48 Minimum Standards for the Testing of Cannabis Products

- Updates the standard sample size for microbial test samples to no less than one gram, and the standard sample size for non-microbial test samples to no less than 0.5 grams
- Updates table 1, Minimum quantity of sample increments.
- Updates the minimum quantity of sample increments:
 - For a dried cannabis batch size of five or less pounds, a minimum sample increment of 10;
 - For a dried batch size of 5 to 15 pounds, a sample increment of 10 plus 5 per pound or fraction thereof above five pounds; and
 - For a Topicals, edibles, concentrates, and volatile solvents batch size of two pounds or less, a sample increment of 10;
 - For a Topicals, edibles, concentrates, and volatile solvents batch size greater than two pounds, a sample increment of 5 per pound.
- Removes the option to use for internal control purposes a portion of a cannabis test sample that is not destroyed.

16.8.2.49 Cannabis Consumption Area Licensure; General Provisions

- Limits all cannabis products to be consumed at licensed cannabis consumption areas to pre-packaged 10 mg or less units purchased at the consumption area.

16.8.2.54 Minimum Standards for Cannabis Consumption Areas:

- Adds requirement for cannabis consumption lounge to maintain a copy of a passing finished product Certificate of Analysis (COA) for all products available for consumption.

16.8.3.9 Cannabis Finished Product Labeling

- Adds to the principal display label on cannabis products the requirement to include the license number of the retail licensee that sold the finished cannabis product.
- Adds requirement to include the name and license number of the testing lab that completed the finished product test.
- Adds requirement to include the date the finished product test was performed.

16.8.3.10 Cannabis Seed and Immature Cannabis Plant Labeling:

- Adds requirement to include cannabis producer license number, strain name, strain names of parent strains, germination rate and tetrahydrocannabinol (THC) thresholds on cannabis seeds and cannabis immature plants.
- Adds requirement to provide mother plant COA at the time of sale.

16.8.3.12 Cannabis Finished Product Packaging

- Adds a requirement that every regulated cannabis product be in an opaque, resealable and continually child-resistant container at the time of transfer to a cannabis retail licensee and consumer.
- Clarifies an exception for medical cannabis to the Total THC limitation of 10 mg per serving and 800 mg per package.
- Eliminates requirement that liquid cannabis finished products be single serving only.
- Eliminates as unneeded the runway for selling medical cannabis packaged prior to the enactment of the CRA.

16.8.3.13 Exit Packaging

- Eliminates the requirement for exit packaging.

16.8.7.15 Required Testing of Cannabis Products

- Clarifies required testing of cannabis products in Table 1.
- Clarifies limits to potency retesting.
- Eliminates an exception to required testing for pesticide residue for any cannabis product made from cannabis concentrate or extract that has verified pesticide residue test results. Testing of such products for pesticide residue will now be required.
- Limits re-testing by a cannabis establishment of failed samples to one re-test by any state licensed cannabis testing laboratory.

- Adds a requirement that any cannabis finished product that has been remediated due to microbial contaminants be labeled as Remediated.
- Clarifies that cannabis that fails a test for pesticides is subject to destruction under CCD wastage rule.

16.8.8.9 Cannabis Plant Tier Levels

- Eliminates the authority of licensee to increase its authorized plant count up to eight increments at a time.

16.8.8.10 Plant Increase Request

- Eliminates from the CCD's factors to consider in a licensee's request to increase its plant count:
 - That the licensee has met the required minimum sale of medical cannabis each of the most recent three months; and
 - Whether there is a shortage of medical cannabis during the most recent six-month period.

16.8.11.8 General Provisions for Fees:

- Requires all payments to originate from an authorized payment source and establishes consequences for unauthorized payments, including application incompleteness and expiration. Effective date for this provision to be January 1, 2027.

16.8.11.15 Retailer Fee Discount for Microbusiness Consignment Contract

- Establishes eligibility criteria, limitations and compliance requirements for a licensing fee discount based on consignment contracts between retailer licensees and cannabis microbusinesses.