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 Friday, May 9, 2025, at 9:00am. 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, 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 Division will begin accepting public comment on the proposed rules beginning April 8, 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 comment may also be submitted by visiting the Division 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 May 9, 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 April 8, 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.

Summary of Proposed Amended Rules.

16.8.1.7 Definitions

- Adds definition of “audited product”.
- Adds definition of flowering”.
- Adds definition of “immature plant”.
- Adds definition of ‘inhaled product”.
- Adds definition of “oral consumption”.

- 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
- Clarifies that the CCD may order destruction of cannabis as part of a recall order.

16.8.2.20 Monitoring Of Licensee
- 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 doesn't exist

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
- Removals topicals from the requirement to obtain authority from the New Mexico environment department.

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 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 ($5000)

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.

16.8.2.45 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 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 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
    - For a Topicals, edibles, concentrates, and volatile solvents batch size of two pounds or less, a sample increment of 10; for a 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

- Eliminates the two classes of license types for cannabis consumption areas
- 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.

16.8.3.9 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

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 consumer
- Clarifies an exception for medical cannabis to the Total THC limitation of 10 mg per serving and 1000 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

- 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 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 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