

NOTICE OF RULEMAKING HEARING

The State Licensing Authority of the Colorado Department of Revenue, Marijuana Enforcement Division, will consider the promulgation of additions and amendments to its Rules and Regulations as authorized by Article XVIII, Section 16 of the Colorado Constitution, and the Retail Code, sections 12-43.4-101 *et. seq.*, C.R.S. For specific information and language concerning the proposed changes and new rules, please refer to the draft regulations which are set forth in their entirety following this notice and are also at the Colorado Department of Revenue's website at: <https://www.colorado.gov/pacific/enforcement/laws-constitution-statutes-and-regulations-marijuana-enforcement>.

STATUTORY AUTHORITY FOR RULEMAKING

The State Licensing Authority promulgates these regulations pursuant to the authority granted in the Retail Code, Article XVIII, Section 16 of the Colorado Constitution, and section 24-4-103, C.R.S., of the Administrative Procedure Act.

SUBJECT OF RULEMAKING

The proposed rules are posted on the Colorado Department of Revenue's website <https://www.colorado.gov/pacific/enforcement/laws-constitution-statutes-and-regulations-marijuana-enforcement>. Other relevant information regarding this rulemaking also will be posted on the Department's website. In addition, the proposed rules are attached to this Notice and fully incorporated herein.

The State Licensing Authority will consider the promulgation of the following list of new rules and existing rules with changes proposed. This list is not exhaustive. For specific information and language concerning the proposed changes, please refer to the draft regulations which are set forth in their entirety with this notice, at the Colorado Department of Revenue's website, and on the Colorado Secretary of State website. **Please take note that in addition to the subject matters addressed in the current draft proposed regulations, the State Licensing Authority may consider additional regulations consistent with any subject matter needed to implement and interpret Article XVIII, Section 16 of the Colorado Constitution, the Retail Code, and the Medical Code.**

RULES TO BE AMENDED OR ADOPTED PURSUANT TO THE RETAIL CODE AND ARTICLE XVIII, SECTION 16 OF THE COLORADO CONSTITUTION

R 1000 Series – Labeling, Packaging, and Products Safety

R 1004.5 – Packaging and Labeling Requirements of a Retail Marijuana Product by a Retail Marijuana Products Manufacturing Facility

R 1006.5 – Packaging and Labeling of Retail Marijuana Product by a Retail Marijuana Store

Other rules governing labeling, packaging, and products safety may be adopted or amended.

Any other rules necessary to implement the Retail Code OR Article XVIII, Section 16 of the Colorado Constitution.

RULEMAKING RECORD AND PUBLIC PARTICIPATION

1. Official Rulemaking Record. The official record for purposes of the rulemaking hearing on March 30, 2015 will include any written comments or oral testimony submitted or presented.
2. Written Comments. The State Licensing Authority encourages interested parties to submit written comments on the proposed rules, including alternate proposals, by 5:00 p.m. on Monday, March 30, 2015, at which time the rulemaking record is anticipated to be closed.

The State Licensing Authority will accept all written comments but strongly encourages written comments to be submitted on Form DR 2477. A copy of the form is attached to this notice. The form may also be found at <https://www.colorado.gov/pacific/sites/default/files/DR2477%20blank.pdf>.

Please print, complete and save Form DR 2477 as a separate document and then submit the Form via e-mail. Written comments and completed Forms DR 2477 may be emailed to: Christine.Lovato@state.co.us. In addition, you may submit completed Forms DR 2477 to:

Colorado Department of Revenue
Marijuana Enforcement Division
Attn: Christine Lovato - Rulemaking Public Comments
1375 Sherman Street, 4th Floor
Denver, CO 80261

Written comments will be accepted at the rulemaking hearing.

3. Oral Comments. In its discretion, the State Licensing Authority may also afford interested parties an opportunity to make brief oral presentations at the rulemaking hearing.

***The State Licensing Authority strongly encourages written comments ***

If allowed, oral presentations will likely be limited to two minutes or less per person. Individuals will not be allowed to cede their time to another person (for instance, one person speaking on behalf of five people will not be given ten minutes to speak). Organized groups of individuals are urged to identify one spokesperson and to be concise. The State Licensing Authority encourages interested parties to avoid duplicating previously-submitted material and testimony.

HEARING SCHEDULE

Date: March 30, 2015
Time: 1:30 p.m. – 3:30 p.m.
Place: Colorado Gaming Commission
17301 W. Colfax Ave.
Suite 135
Golden, CO 80401

Location of the rulemaking hearing will also be posted on the Department of Revenue's website and the Secretary of State's website.

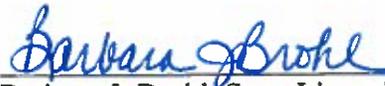
The hearing may be continued at such place and time as the State Licensing Authority may announce.

The State Licensing Authority shall deliberate upon the evidence, testimony and written submissions presented at this hearing, as well as any related matters properly submitted before the hearing record is closed. Pursuant to said hearing, in the above-entitled matter at the time and place aforesaid, or at any adjourned meeting, the State Licensing Authority will adopt such rules and regulations as in its judgment the record may justify.

If you are an individual with a disability who needs a reasonable accommodation in order to participate in this rulemaking hearing, please contact Corrie Martinez at Corrie.Martinez@state.co.us no later than March 16, 2015.

Dated this 27th day of February, 2015.

THE COLORADO DEPARTMENT OF REVENUE,
STATE LICENSING AUTHORITY,
MARIJUANA ENFORCEMENT DIVISION



Barbara J. Brohl, State Licensing Authority
Colorado Department of Revenue

Basis and Purpose – R 1004.5

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(IV), and 12-43.4-202(3)(a)(VII), 12-43.4-404(6), and 25-4-1614(3)(a), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VI). The purpose of this rule is to ensure that every Retail Marijuana Products Manufacturing Facility labels each Shipping Container and Container holding a Retail Marijuana Product with all of the necessary and relevant information for the receiving Retail Marijuana Establishment. In addition, this rule clarifies basic packaging requirements. The State Licensing Authority wants to ensure the regulated community employs proper packaging and labeling techniques for each Retail Marijuana Product as this is a public health and safety concern.

R 1004.5 – Packaging and Labeling Requirements of a Retail Marijuana Product by a Retail Marijuana Products Manufacturing Facility

- A. Applicability. This rule shall apply to all Retail Marijuana Products manufactured on or after February 1, 2015.
- B. Packaging of Retail Marijuana Product by a Retail Marijuana Products Manufacturing Facility
 1. General Standard.
 - a. Every Retail Marijuana Products Manufacturing Facility must ensure that each Container holding a Retail Marijuana Product is placed in a Shipping Container prior to transport or transfer to another Retail Marijuana Establishment.
 2. Single-Serving Edible Retail Marijuana Product.
 - a. Every Retail Marijuana Products Manufacturing Facility must ensure that each Single-Serving Edible Retail Marijuana Product is ~~individually~~ packaged within a Child-Resistant Container prior to transport or transfer to another Retail Marijuana Establishment.
 - b. A Retail Marijuana Products Manufacturing Facility may bundle Single-Serving Edible Retail Marijuana Products that are ~~individually~~ packaged in Child-Resistant packaging and labeled pursuant to Rule R 1004.5(C) into a larger package that does not need to be Child-Resistant so long as the total amount of active THC contained within the bundled package does not exceed 100 milligrams and the external packaging complies with the Serving Size and Total Active THC Statement requirement of subparagraph (C)(2)(c) of this rule.
 3. Multiple-Serving Edible Retail Marijuana Product.
 - a. Every Retail Marijuana Products Manufacturing Facility must ensure that each Multiple-Serving Edible Marijuana Product is ~~individually~~ packaged within a Child-Resistant Container that maintains its Child-Resistant effectiveness for multiple openings prior to transport or transfer to another Retail Marijuana Establishment.
 4. Liquid Edible Retail Marijuana Product.

- a. Liquid Edible Retail Marijuana Product that contains no more than one Standardized Serving Of Marijuana. A Retail Marijuana Products Manufacturing Facility must ensure that each product complies with subparagraph (B)(2)(a) of this rule.
- b. Liquid Edible Retail Marijuana Product that contains more than one Standardized Serving Of Marijuana.
 - i. A Retail Marijuana Products Manufacturing Facility must ensure that each product is packaged in a Child-Resistant Container that maintains its Child-Resistant effectiveness for multiple openings; and
 - ii. The Container shall clearly demark each Standardized Serving Of Marijuana in a way that enables a reasonable person to intuitively determine how much of the product constitutes a single serving of active THC. The portion of the Container that clearly demarks each Standardized Serving Of Marijuana need not be Opaque; OR
 - iii. The Container shall include a device that allows a reasonable person to intuitively measure and serve a single serving of active THC.

5. Retail Marijuana Product that is not Edible Retail Marijuana Product.

- a. Every Retail Marijuana Products Manufacturing Facility must ensure that each Retail Marijuana Product that is not an Edible Retail Marijuana Product is individually packaged within a Container prior to transport or transfer to another Retail Marijuana Establishment.

C. Labeling of Retail Marijuana Product Containers by a Retail Marijuana Products Manufacturing Facility. A Retail Marijuana Products Manufacturing Facility must ensure that a label(s) is affixed to every Container holding a Retail Marijuana Product that includes all of the information required by this rule prior to transport or transfer to another Retail Marijuana Establishment.

- 1. Required Information (General). Every Retail Marijuana Products Manufacturing Facility must ensure the following information is affixed to every Container holding a Retail Marijuana Product:
 - a. The license number of the Retail Marijuana Cultivation Facility(-ies) where the Retail Marijuana used to produce the Retail Marijuana Product was grown;
 - b. The Production Batch Number(s) of Retail Marijuana concentrate(s) used in the production of the Retail Marijuana Product.
 - c. The license number of the Retail Marijuana Products Manufacturing Facility that produced the Retail Marijuana Product.
 - d. A net weight statement.

- e. The Production Batch Number(s) assigned to the Retail Marijuana Product.
- f. A statement about whether the Container is Child-Resistant.
- g. A clear set of usage instructions for non-Edible Retail Marijuana Product.
- h. The Identity Statement and Standardized Graphic Symbol of the Retail Marijuana Products Manufacturing Facility that manufactured the Retail Marijuana Product. A Licensee may elect to have its Identity Statement also serve as its Standardized Graphic Symbol for purposes of complying with this rule. The Licensee shall maintain a record of its Identity Statement and Standardized Graphic Symbol and make such information available to the State Licensing Authority upon request;
- i. The Universal Symbol, indicating that the Container holds marijuana, which must be no smaller than ¼ of an inch by ¼ of an inch;
- j. The following warning statements:
 - i. **“There may be health risks associated with the consumption of this product.”**
 - ii. **“This product is infused with marijuana.”**
 - iii. **“This product was produced without regulatory oversight for health, safety, or efficacy.”**
 - iv. **“The intoxicating effects of this product may be delayed by two or more hours.”**
 - v. **“There may be additional health risks associated with the consumption of this product for women who are pregnant, breastfeeding, or planning on becoming pregnant.”**
 - vi. **“Do not drive a motor vehicle or operate heavy machinery while using marijuana.”**
- ~~jk.~~ A complete list of all nonorganic pesticides, fungicides, and herbicides used during the cultivation of the Retail Marijuana used to produce the Retail Marijuana Product.
- ~~kl.~~ A complete list of solvents and chemicals used in the creation of any Retail Marijuana concentrate that was used to produce the Retail Marijuana Product.

2. Required Information (Edible Retail Marijuana Product). Every Retail Marijuana Products Manufacturing Facility must ensure that the following information or statement is affixed to every Container holding an Edible Retail Marijuana Product:

- a. Ingredient List. A list of all ingredients used to manufacture the Edible Retail Marijuana Product; which shall include a list of any potential allergens contained within.

- b. Statement Regarding Refrigeration. If the Retail Marijuana Product is perishable, a statement that the Retail Marijuana Product must be refrigerated.
 - c. Serving Size and Total Active THC Statement. Information regarding: the size of Standardized Serving Of Marijuana for the product by milligrams, the total number of Standardized Servings of Marijuana in the product, and the total amount of active THC in the product by milligrams. For example: **“The serving size of active THC in this product is X mg, this product contains X servings of marijuana, and the total amount of active THC in this product is X mg.”**
 - d. Statement of Production Date. The date on which the Edible Retail Marijuana Product was produced.
 - e. Statement of Expiration Date. A product expiration date, for perishable Retail Marijuana Product, upon which the product will no longer be fit for consumption, or a use-by-date, upon which the product will no longer be optimally fresh. Once a label with a use-by or expiration date has been affixed to a Container holding a Retail Marijuana Product, a Licensee shall not alter that date or affix a new label with a later use-by or expiration date.
 - f. A nutritional fact panel that must be based on the number of THC servings within the Container.
3. Permissive Information (Edible Retail Marijuana Product). Every Retail Marijuana Products Manufacturing Facility may affix a label(s) with the following information to every Container holding an Edible Retail Marijuana Product:
- a. The Retail Marijuana Product’s compatibility with dietary restrictions.
4. Required Statement When Contaminant Tests are Performed. Every Retail Marijuana Products Manufacturing Facility must ensure that a label is affixed to each Container holding a Retail Marijuana Product with a statement asserting that the Retail Marijuana Product was tested for contaminants and the results of those tests, if:
- a. A Retail Marijuana Testing Facility(ies) tested every Harvest Batch used to produce the Retail Marijuana Product for contaminants required to be tested per rule R 1501;
 - b. A Retail Marijuana Testing Facility tested every Production Batch of Retail Marijuana concentrate used to produce the Retail Marijuana Product for contaminants required to be tested per rule R 1501; and
 - c. A Retail Marijuana Testing Facility(ies) tested the Production Batch of the Retail Marijuana Product for contaminants required to be tested per rule R 1501.
5. Required Statement When Cannabinoid Potency is Tested. Every Retail Marijuana Products Manufacturing Facility must ensure that a label is affixed to the Container with a potency profile expressed in milligrams pursuant to rule R 1503 and the number of THC servings within the Container.

6. Required Statement When No Contaminant Testing is Completed. Every Retail Marijuana Products Manufacturing Facility must ensure that a label is affixed to each Container that holds a Retail Marijuana Product with the statement: **“The marijuana product contained within this package has not been tested for contaminants.”** unless:
- a. A Retail Marijuana Testing Facility(ies) tested every Harvest Batch used to produce the Retail Marijuana Product for contaminants required to be tested per rule R 1501;
 - b. A Retail Marijuana Testing Facility tested every Production Batch of Retail Marijuana concentrate used to produce the Retail Marijuana Product for contaminants required to be tested per rule R 1501; and
 - c. A Retail Marijuana Testing Facility(ies) tested the Production Batch of the Retail Marijuana Product for contaminants required to be tested per rule R 1501.

D. Labeling of Retail Marijuana Product Shipping Containers by Retail Marijuana Products Manufacturing Facility. Prior to transporting or transferring any Retail Marijuana Product to another Retail Marijuana Establishment, a Retail Marijuana Manufacturing Products Facility must ensure that a label is affixed to a Shipping Container holding Retail Marijuana Product that includes all of the information required by this rule. A Retail Marijuana Products Manufacturing Facility must include the following information on every Shipping Container:

- 1. The number of Containers holding a Retail Marijuana Product within the Shipping Container; and
- 2. The license number of the Retail Marijuana Products Manufacturing Facility(-ies) that produced the Retail Marijuana Product within the Shipping Container.

Basis and Purpose – R 1006.5

The statutory authority for this rule is found at subsections 12-43.4-202(2)(b), 12-43.4-202(3)(a)(IV), 12-43.4-202(3)(a)(VII), 12-43.4-402(4), and 25-4-1614(3)(a), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VI). The purpose of this rule is to ensure that the labeling on each Container holding a Retail Marijuana Product includes necessary and relevant information for consumers, does not include health and physical benefit claims, is easily accessible to consumers, and is clear and noticeable. In addition, this rule clarifies basic packaging requirements. Further, the State Licensing Authority believes based on written and oral comments it has received through the rulemaking process that prohibiting labels that are intended to target individuals under the age of 21 and requiring child-resistant packaging is of a state wide concern and would assist in limiting exposure and diversion to minors. The State Licensing Authority wants to ensure the regulated community employs proper packaging and labeling techniques for each Retail Marijuana Product as this is a public health and safety concern.

R 1006.5 – Packaging and Labeling of Retail Marijuana Product by a Retail Marijuana Store

- A. Applicability. This rule shall apply to all Retail Marijuana Stores beginning February 1, 2015.
- B. Packaging Requirements for a Retail Marijuana Store.
1. Beginning February 1, 2015, a Retail Marijuana Store shall not purchase, take possession of, or sell Edible Retail Marijuana Product that does not comply with rule R 1004.5.
 2. A Retail Marijuana Store must ensure that each Edible Retail Marijuana Product placed within a Container for sale to a consumer pursuant to this rule must also be placed in an Opaque Exit Package at the point of sale to the consumer.
 3. A Retail Marijuana Store must ensure that each Retail Marijuana Product that is not an Edible Retail Marijuana Product is placed within a Container prior to sale to a consumer. If the Container is not Child-Resistant, the Retail Marijuana Store must place the Container within an Exit Package that is Child-Resistant.
- C. Labeling of Retail Marijuana Product by a Retail Marijuana Store. Every Retail Marijuana Store must ensure that a label(s) is affixed to every Exit Package at the time of sale to a consumer that includes all of the information required by this rule. ~~If an Exit Package is not required pursuant to paragraph (B)(3) of this rule, and the Retail Marijuana Store elects not to provide one, then the Retail Marijuana Store must ensure the labels required by this rule are affixed to each Container.~~
1. Required Information. ~~(General). Every Retail Marijuana Store must ensure the following information is affixed to every Container holding a Retail Marijuana Product:~~
 - a. The license number of the Retail Marijuana Store that sold the Retail Marijuana Product to the consumer;
 - ~~b. A statement about whether the Container is Child-Resistant;~~
 - ~~cb.~~ The Identity Statement and Standardized Graphic Symbol of the Retail Marijuana Store that sold the Retail Marijuana Product to the consumer.

A Licensee may elect to have its Identity Statement also serve as its Standardized Graphic Symbol for purposes of complying with this rule. The Licensee shall maintain a record of its Identity Statement and Standardized Graphic Symbol and make such information available to the State Licensing Authority upon request;

- dc.** The date of sale to the consumer;
- ed.** The following warning statements:

 - i. **“There may be health risks associated with the consumption of this product.”**
 - ii. **“This product is intended for use by adults 21 years and older. Keep out of the reach of children.”**
 - iii. **“This product is unlawful outside the State of Colorado.”**
 - iv. **“This product is infused with marijuana.”**
 - v. **“This product was produced without regulatory oversight for health, safety, or efficacy.”**
 - vi. **“The intoxicating effects of this product may be delayed by two or more hours.”**
 - vii. **“There may be additional health risks associated with the consumption of this product for women who are pregnant, breastfeeding, or planning on becoming pregnant.”**
 - viii. **“Do not drive a motor vehicle or operate heavy machinery while using marijuana.”**
- fe.** The Universal Symbol, indicating that the Exit Package holds marijuana, which must be no smaller than ¼ of an inch by ¼ of an inch.



Colorado Department of Revenue Suggested Revision to Rules and Regulations

This form is provided to suggest rule changes to the Divisions of the Department of Revenue
This form must be completed in its entirety, prior to submission for consideration by the Division.

Last Name		First Name	
Company/Organization		Job Title	
Date	Contact Phone Number	Email Address	
<input type="checkbox"/> Check if interested in being added to rule distribution lists			
Check which division rules you are addressing (check applicable division)			
<input type="checkbox"/> Auto Industry		<input type="checkbox"/> Lottery	
<input type="checkbox"/> Gaming		<input type="checkbox"/> Medical Marijuana	
<input type="checkbox"/> Hearings		<input type="checkbox"/> Marijuana	
<input type="checkbox"/> Liquor/Tobacco Enforcement		<input type="checkbox"/> Motor Vehicle	
<input type="checkbox"/> Racing Events		<input type="checkbox"/> Taxation	
<input type="checkbox"/> Unknown/Other			
Rule Name and/or Rule Number		Section and Page Number of Rule	
Suggest wording for existing rule:			

For Department Use Only	
Tracking #	

Colorado Department of Revenue Suggested Revision to Rules and Regulations



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Basic justification for suggested change:

Large empty rectangular box for providing the basic justification for the suggested change.

Examples when the current rule caused a problem/confusion:

Please provide real life examples

Large empty rectangular box for providing examples of problems or confusion caused by the current rule.

For Department Use Only	
Tracking #	

Colorado Department of Revenue Suggested Revision to Rules and Regulations



This form is provided to suggest rule changes to the Divisions of the Department of Revenue
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Explain how the change would affect/benefit the industry:

Explain how the change would affect/benefit the Division impacted:

For Department Use Only

Tracking #

Colorado Department of Revenue Suggested Revision to Rules and Regulations



This form is provided to suggest rule changes to the Divisions of the Department of Revenue
This form must be completed in its entirety, prior to submission for consideration by the Division.

Explain how the change would affect/benefit the public:

ex: making the rules easier to understand, increasing efficiency/ effectiveness, fairness, etc.

List any documents you have to support the proposed rule change:

You will be notified via email or mail once a disposition has been determined by the Division. If email is not available please complete contact information below:

Mailing Address

Street Address	City	State	Zip
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Please return this request by email to: dor_ruleform@state.co.us or by mailing the request to the following address:

Colorado Department of Revenue
Executive Director's Office
RE: Rules
1375 Sherman Street, Room 409
Denver, Colorado 80261

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