



Introduction

The New York State Office of Cannabis Management (Office) is issuing this guidance to Licensed Suppliers and Retailers, Registered Organizations Dispensing (RODs) and Registered Organizations Non-Dispensing (RONDs), clarifying the requirements for payments on credit purchases and sales and for delinquent payment reporting. Specifically, this guidance provides the following information:

1. Overview of the requirements pertaining to delinquent payments set forth in Section 124.2 of Title 9 of the New York Codes, Rules and Regulations (9 NYCRR).
2. Process for suppliers to report retailers who are delinquent in payments.
3. Process for suppliers to report retailers who have made payment in full.
4. C.O.D. list publication.
5. Process for retailers to access information from the C.O.D. list specific to their own license number.
6. Information regarding disputes.

Questions regarding delinquent payments or this guidance should be addressed to codreporting@ocm.ny.gov.



Definitions

Term	Definition
Cash	U.S. currency, certified check, money order, electronic funds transfer, bank officer's check or draft, or a check drawn on the licensee's account payable to the distributor.
Credit	The sale of cannabis products by supplier to a retailer where the payment is due at some future point in time other than at time of sale.
C.O.D.	Cash on Delivery
C.O.D. List	List of retailers who have been reported by suppliers as having failed to make payment as required in 9 NYCRR § 124.2.
Date of Delivery	The date that cannabis products sold on credit to a retailer are delivered.
Payment Period	The period beginning on the date cannabis products are delivered and ending on the thirtieth day following the date on which cannabis products are delivered.
Final Payment Date	The last day of the payment period.
Payment in Full	Payment by a retailer for only the invoice amount due on the date of delivery of such cannabis products sold on credit before any interest or late fees have been applied.
Supplier	Distributors, cooperatives, microbusinesses, ROND or ROD, as defined in 9 NYCRR Part 118, as well as Adult-Use Conditional Cultivators (AUCC) and Adult-Use Conditional Processors (AUCP) as authorized in the Cannabis Law, who sell products to licensed retailers.
Retailer	Licensees authorized to purchase cannabis from a licensed supplier as authorized by the Cannabis Law.



1. OVERVIEW OF DELINQUENT PAYMENT REPORTING

Suppliers may, but are not required to, sell cannabis products to retailers on credit, provided that payments comply with the requirements set forth in 9 NYCRR § 124.2 and retailers purchasing cannabis products on credit pay for such products within 30 days, unless otherwise approved by the Cannabis Control Board (Board).

Suppliers are required to report retailers who do not pay within 30 days of delivery to the Office. The Office will publish a C.O.D. list which will be provided to all suppliers. Suppliers are prohibited from selling cannabis products on credit to any retailer on this list.

The Board may impose any penalty or condition otherwise authorized by 9 NYCRR § 124.2 if a retailer does not pay past due invoices under this subdivision.

Timely payment by retailers and compliance with reporting requirements for suppliers are critical. The Board may revoke, cancel, or suspend a license issued pursuant to 9 NYCRR § 124.2(k) for actions in violation of any of the provisions of 9 NYCRR § 124.2, making a false statement in any disclosures filed pursuant to 9 NYCRR § 124.2, or failing or refusing in any manner to comply with any of the provisions of 9 NYCRR § 124.2.

2. WRITTEN NOTICE OF DEFAULT

If a retailer obtained cannabis products on credit from a supplier and failed to make payment to the supplier on or before the final payment date, then the supplier must provide a written notice of default to the retailer.

- a. The supplier must send the written notice of default by first class mail to the retailer unless another written form of notification was agreed upon between the retailer and supplier. A Notice of Default template can be found here www.cannabis.ny.gov/notice-of-default-template for suppliers who wish to use it.
- b. The supplier must send the written notice of default on or before the notification dates determined by the Office. A schedule of notification dates can be found here: www.cannabis.ny.gov/2024-credit-calendar.

Retailers who receive a written notice of default from suppliers will be published on the Office's C.O.D. list in accordance with the schedule set forth in subdivision (b) above, and such list will be distributed to all suppliers. Retailers who do not make full payment to their suppliers are prohibited from purchasing cannabis products on credit.



3. REPORTING DELINQUENT PAYMENTS TO THE OFFICE

Suppliers are required to file with the Office, on or before each notification date, copies of the notices sent by them to all delinquent retailers. In addition to copies of the notices, the following information will be required to be sent to the Office:

- ✓ Supplier's name
- ✓ Supply license number
- ✓ Delinquent retailer's name
- ✓ Delinquent retailer's operating address
- ✓ Credit amount owed by retailer
- ✓ Date of delivery

Instructions for submitting this information to the Office can be found here: www.cannabis.ny.gov/supplier-instructions. The schedule of notification dates can be found here: www.cannabis.ny.gov/2024-credit-calendar.

4. REPORTING PAYMENTS MADE BY LICENSEES

A supplier must notify the Office within one business day of receiving payment in full as defined above from the retailer. The Office will update the C.O.D. list to reflect this payment. Suppliers are required to submit the following information to the Office:

- ✓ Supplier's name
- ✓ Supply license number
- ✓ Delinquent retailer's name
- ✓ Delinquent retailer's operating address

Instructions for submitting this information to the Office can be found here: www.cannabis.ny.gov/supplier-instructions. The schedule of notification dates can be found here: www.cannabis.ny.gov/2024-payment-calendar.

If a retailer has made payment in full on an outstanding invoice the Office may permit, via written approval, sales to any retailer who has received notice of default, or who is named on a delinquent list, on terms other than for cash prior to the publication of the next appropriate delinquent list if the following conditions are met:

- ✓ Reporting requirements noted in Section 4 of this guidance have been provided to the Office and is to the satisfaction of the Office;
- ✓ The supplier requests to supply the retailer with cannabis products on credit; and
- ✓ The retailer does not have other outstanding credits with other suppliers.

5. OFFICE PUBLICATION OF THE C.O.D. LIST



The Office will, as soon as practicable after each notification date compile and publish a C.O.D. list. Such a list will be available to suppliers by using a link and login credentials provided to them by the Office.

The delinquent list will contain the license number and names of all retailers who have been reported by suppliers as having failed to make payment as required by 9 NYCRR § 124.2. An updated list will be published weekly on Wednesdays.

The publication of a delinquent list from the Office shall constitute knowledge by a supplier of the names of the retailers who have failed to make payment for cannabis in accordance with the requirements set forth in 9 NYCRR § 124.2.

Suppliers, upon publication of such delinquent list, are prohibited from selling or delivering any cannabis on credit to any retailer whose name appears on such list. **Only cash payment at the time of delivery may be accepted until the licensee is removed from the C.O.D. list.**

Retailers can email CODReporting@ocm.ny.gov to request information that appears on the C.O.D. list specific to their license number only. In order for their name to be removed from the C.O.D. list, the retailer must complete payment in full for the cannabis products received on credit from all suppliers, and all suppliers who reported a delinquent payment from that retailer and received payment in full, must report such payment to the Office prior to the next scheduled list publication date.

6. RECORD KEEPING REQUIREMENTS

Pursuant to 9 NYCRR § 125.13, licensees are required to keep and maintain records as required, for at least five years from the date of creation, unless a shorter time is specified by the Office. Such records must be made readily retrievable and available to the Office upon request and must account for all activities of the licensee, including financial records, documents pertaining to, bank statements, sales invoices, receipts, purchase orders, delivery receipts and any other records related to delinquent payments.

7. DISPUTES

Disputes may exist between a supplier and a retailer to whom they sold cannabis products on credit. If such dispute cannot be resolved between the supplier and retailer, each party must provide statements to the Office as to the facts and circumstances thereof. Such statements must be sent to CODReporting@ocm.ny.gov. The Office will determine whether or not a retailer is delinquent and should be included on the C.O.D. list. After the licensee receives the written determination from the Office, the licensee may appeal this determination and request a hearing pursuant to 9 NYCRR Part 133.