

utility company or not, the statutory Federal income tax requirement for each year, if any, and the alternative minimum tax requirement for each year, if any. The review period for the CTA calculation shall be for five consecutive tax years, including the complete tax year within the utility's proposed test year. The calculated CTA shall be allocated, so that the rate base shall be reduced by 100 percent of the full CTA. The transmission portion of an electric distribution company's income shall not be included in the calculation of CTA.

(b) Each utility that makes a filing pursuant to (a) above shall, unless otherwise ordered or permitted by the Board, give notice thereof, as follows:

1. Serve a notice of the filing and a copy of the proposed tariff or a copy of the petition or a statement of the effect of the proposed filing upon the municipal clerk in each of the municipalities in which there is rendered a service, the charge for which is proposed to be increased, the clerk of the Board of County Commissioners of each affected county and, where appropriate, the executive officer of each affected county;

2. Serve a notice of the filing and two copies of the petition or tariff on the Department of Law and Public Safety, Division of Law, Public Utilities Section, R.J. Hughes Justice Complex, 25 Market St., 7th Floor West, PO Box 112, Trenton, NJ 08625 and on the Director, Division of Rate Counsel, 140 East Front Street, 4th Floor, PO Box 003, Trenton, New Jersey 08625;

3. (No change.)

(c)-(e) (No change.)

(f) Unless otherwise ordered by the Board, a utility that seeks to implement a provisional rate increase shall:

1. Serve written notice of the intended provisional rate increase at least 30 days in advance of the provisional rate increase, but not earlier than 75 days in advance of the provisional rate increase, upon:

i.-ii. (No change.)

iii. The Department of Law and Public Safety, Public Utilities Section, 25 Market Street, PO Box 112, Trenton, NJ 08625;

iv. (No change.)

v. The clerk of the Board of County Commissioners of each county where the utility renders service;

vi.-ix. (No change.)

2.-4. (No change.)

(g)-(k) (No change.)

14:1-5.13 Informal complaint in lieu of petition

(a) In lieu of filing a petition, an informal complaint may be made by letter, email, electronic filing, or telephone.

(b)-(i) (No change.)

SUBCHAPTER 8. CONTESTED CASE HEARINGS

14:1-8.7 Motions and answers on rehearing, reopening, or reconsideration

(a)-(d) (No change.)

(e) Appeals of the Board's rulings on a motion for rehearing, reopening, or reconsideration must be made to the Appellate Division within 45 days of the Board's Order. The Rules Governing the Courts of the State of New Jersey provide the rules and procedures for filing the appeal. Information regarding filing an appeal may be obtained from the Superior Court of the State of New Jersey.

SUBCHAPTER 12. PROCEDURES FOR DETERMINING THE CONFIDENTIALITY OF SUBMITTED INFORMATION

14:1-12.3 Procedure for making a confidentiality claim

(a) (No change.)

(b) A claimant shall submit*,* to the custodian*,* a confidential copy and a preliminary public copy, as those terms are defined at N.J.A.C. 14:1-12.2, of the entire record containing asserted confidential information. The preliminary public copy shall carry a notation, in a form to be developed by the custodian, stating that confidential information has been *[blacked out]* *redacted* or deleted. The custodian may disclose the preliminary public copy to any person, without restriction or limitation.

(c) The claimant shall label the first page of the confidential copy "CONFIDENTIAL COPY." At the top of each page of the confidential copy which contains information that the claimant asserts is confidential, the claimant shall place a boldface heading reading "CONFIDENTIAL." The claimant shall clearly underscore or highlight all information in the confidential copy which the claimant asserts to be confidential*[, in a manner which shall be clearly visible on photocopies of the confidential copy]*.

(d) *[The]* *If the claimant sends a physical copy of the information claimed to be confidential to the Board, the* claimant shall seal the confidential copy in an envelope displaying the word "CONFIDENTIAL" in bold type or stamp on both sides.

1. This envelope shall be enclosed in another envelope for transmittal to the custodian. The outer envelope shall bear no markings indicating the confidential nature of the contents.

[(e)] *2.* (No change in text.)

*** (e) If the information claimed to be confidential is electronically filed, the claimant shall include the word "CONFIDENTIAL" in the file name of the submitted document. The claimant shall request that the custodian verify by email confirmation that the submission has been received.***

(f) The claimant shall include in the package *or electronic submission,* a written designation of a person to receive notices and other communications. The designation shall include the information required pursuant to N.J.A.C. 14:1-12.4.

(g) The claimant shall include in the package *or electronic submission,* substantiation of the confidentiality claim as described *[in]* *at* N.J.A.C. 14:1-12.8.

14:1-12.5 Correspondence, inquiries, and notices

(a) (No change.)

(b) *[A claimant shall direct all]* *All* correspondence, inquiries, notices, and submissions concerning confidentiality claims pursuant to this subchapter *shall be electronically filed by the claimant or directed* to the custodian at:

Records Custodian
New Jersey Board of Public Utilities
44 South Clinton Avenue
PO Box 350
Trenton, New Jersey 08625-0350

14:1-12.18 Payment for copies

(a) (No change.)

(b) For the convenience of the requester, payment may be made in cash, by check or money order. Access to electronic records and non-printed materials shall be provided free of charge pursuant to N.J.S.A. 47:1A-5.b(1) of the Open Public Records Act.

TREASURY—GENERAL

(a)

NEW JERSEY CANNABIS REGULATORY COMMISSION

Personal-Use Cannabis Rules

Readoption of Specially Adopted Rules with Amendments: N.J.A.C. 17:30

Adopted New Rules: N.J.A.C. 17:30-12, 13, 15, and 20.7

Adopted Recodification with Amendments: N.J.A.C. 17:30-2.2 as 2.3

Proposed: August 1, 2022, at 54 N.J.R. 1470(a).

Adopted: February 8, 2023, by Dianna Houenou, Chair, New Jersey Cannabis Regulatory Commission.

Filed: February 8, 2023, as R.2023 d.034, with non-substantial changes not requiring additional notice or public comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 24:6I-31 et seq.

Effective Dates: February 8, 2023, Readoption;
March 6, 2023, Amendments, New Rules, and
Recodifications.

Expiration Date: February 8, 2030.

Summary of Public Comments and Agency Responses:

The New Jersey Cannabis Regulatory Commission (“Commission” or “CRC”) received timely comments from the following commenters during the 60-day public comment period, which ended on September 30, 2022. The numbers in parenthesis after each comment correspond to the commenter(s) listed below.

- | | | |
|--|---|--|
| <p>1. A Kelly
2. A Krampert
3. Ada
4. Adam Donahoe
5. Adrian T. Smith
6. Aimee Ricca
7. Alex Landolfi
8. Allan Paton
9. Alvaro Reguly
10. Alycia K
11. Ami Kachalia, ACLU-NJ
12. Andrea Abolins
13. Andrew L. Zeitlin, Canopy Crossroad, LLC
14. Andrew Malkinski
15. Anonymous resident
16. Anthony Angeli
17. Anthony Dickerson
18. Antonio DeMarco
19. Antonio Medina Na
20. Arman Mkrtchyan
21. B L
22. Barbara R.
23. Barbara Spina
24. Barry Trogu
25. Beatriz Aguayo
26. Ben Sher
27. Benjamin Alcantara
28. Bill Kehoe
29. Bob McClure
30. Bobby McLeod, HomeGrower ACNJ, Inc.
31. Brandi
32. Brenda Young
33. Brian Farr
34. Brian Garmo
35. Cannabis Advisory Group
36. Cassara Grasso
37. Catherine Keim
38. Catherine Scotto-Shapiro
39. Chandana
40. Charles Kaplan
41. Charles Sprickman
42. Charlotte Hanna, Community Growth Partners New Jersey, LLC
43. Charrene
44. Chirag
45. Chirali Patel, Blaze Responsibly
46. Christian Dyott
47. Christopher Smith
48. Chuck Salzman, Green Lane Distribution
49. Chunmei Li
50. Cindy Keck
51. Clawdis Odi
52. Clinton Hamilton
53. Cody-Ann Delbert, BCB Bank
54. Cory Thayer
55. D
56. Dan
57. Daniela Benton
58. David Chen
59. David Duleba</p> | <p>60. David G. Evans, Esq., Senior Counsel Cannabis Industry Victims Educating Litigators (CIVEL)
61. David Little, Incentive Gourmet
62. David Nathan
63. David Smiley
64. David Wankoff
65. David Warfel
66. Dawn L. Goldstein, National Labor Relations Board (NLRB)
67. Debra Navarro
68. Dennis OLeary
69. Diane
70. Diane Jankovich-Ludwig
71. Diane Lagattuta
72. Diane Litterer, New Jersey Prevention Network
73. Diane McInerney
74. Diane Zranchev
75. Diann Glickman
76. Donna Podolski
77. Donna Yahara
78. Douglas Hargrave
79. Dr. Charles McAuley
80. Dr. J. J. Lynch
81. Dr. Monica Aswani
82. Dulani Northover
83. Dylan Mortman
84. Earlen Haven
85. Ed Adamsky
86. Elina Rosario
87. Eliyahu Langer
88. Elizabeth Pflugfelder, DSP
89. Eman Mohamed
90. Emily
91. Emily Deadwyler
92. Emily O’Mea
93. Emily Sztenderowicz
94. Emmanuel Amaya
95. Emmanuel B
96. Everol Prime, Allstar Development
97. Evie Aguia
98. Extremely Disappointed
99. Ezra Helfand, Wellspring Center for Prevention
100. Fathom
101. Fathom Dee Oliver
102. Francis Brady
103. Francisco
104. Gary Wojcik
105. Gayle Mena
106. Gian Lombardi, Molly Ann Farms
107. Giulia Siers
108. Grace Zhang
109. Guiselle Dickson
110. H. David Lawrence
111. Hannah
112. Helen M. Kemp
113. Hillary Beveridge
114. Howard E. Jones
115. Howard Titen
116. Lurii Klym
117. Jack Hickey</p> | <p>118. Jack Kraemer
119. Jacqueline
120. Jacqueline Curcio
121. Jade Ammeen
122. Jaemin
123. Jair Pinto
124. James Diecidue
125. Jane
126. Janet Schulz
127. Jason Bacon
128. Jason Laranteiro
129. Jason Morin
130. Jason Victor
131. Jean Pasternak
132. Jenn
133. Jennifer B
134. Jennifer Condron, Feels of Green LLC
135. Jennifer Dalickas, The Cannabist
136. Jennifer Jackson
137. Jerry, Medical marijuana user
138. Jerry, New Jersey Resident
139. Jerry Perez
140. Jerry Segovia, Proper Releaf LLC
141. Jim Boalnd
142. Joan Vawter
143. Joan Wardell
144. JoAnna
145. JoAnna Ziemba
146. Joe
147. Joel Naatus
148. John
149. John Andrew Ammeen
150. John Gannon, Proper Releaf LLC
151. John Kulin, High Grass Farms, LLC
152. John Shantz
153. John Sullivan
154. John Tokarski
155. Jon D Jenkins
156. Jonathan Ortiz
157. Jose Cruz, Mid-Atlantic Growth, LLC
158. Josef Lamberti
159. Joseph Balassiano
160. Joseph Gonzalez
161. Josette Jackson
162. Joshua Fine
163. Joshua Luciani
164. Judy Friedmann
165. Julian Baldwin
166. June Governale
167. Justin Lee, Kusala Care
168. Karla Davis, Madison Spine
169. Kathleen Kolvites
170. Kathryn O’Neill
171. Kathy Ortiz
172. Katie Neer, Lantern
173. Kaylee Guerra
174. Keren Avery
175. Kevin
176. Kevin, Cannabis Consulting
177. Kevin, Cannabis Justice
178. Kevin Boland
179. Kevin Frank
180. Kimi Wei</p> |
|--|---|--|

- 181. Kristen Goodde, Trichome Analytical
- 182. Kunjan Shah, Herb-A-More
- 183. Kurt J Kalenak
- 184. Kurt Weissling
- 185. L. Dowling
- 186. Lascinda Goetschius
- 187. Laurie McHugh, Union Chill Cannabis Company LLC
- 188. Leah Shoot
- 189. Leah Tovar
- 190. Leak P.
- 191. Leeanne B. Atkins
- 192. Leigh Zarem
- 193. Lenore Scatuorchio
- 194. Liliana Hollandt, Lady L Cannabis, LLC
- 195. Lisa Schneider
- 196. Lisa. Famiglietti
- 197. Lizzie Kirshenbaum, Weedmaps
- 198. Lois Baldwin
- 199. Longbo Yu
- 200. Lori Klugman
- 201. Lynda Soares
- 202. Lynne M. Valente
- 203. Marc O'Brien-Richardson
- 204. Marcia Reilly
- 205. Marco Passalacqua
- 206. Margie
- 207. Marguerite Giumarra
- 208. Maria Lindell
- 209. Maria McIntyre, Cannabis Microbiology- BioMerieux
- 210. Marilyn Miller
- 211. Mark Koppenhafer
- 212. Mark Ricklis
- 213. Mary Self
- 214. Mary A Botteon
- 215. Mary C. Ruegg
- 216. Mary Pat Angelini, Preferred Behavioral Health Group
- 217. Max Thompson, Blue Violets LLC
- 218. Meaghan Williams
- 219. Michael Bronstein, American Trade Association for Cannabis and Hemp
- 220. Michael C. McQueeny, Outside Counsel - FullTilt Labs LLC
- 221. Michael C. McQueeny, Outside Counsel - Community Wellness Center of NJ, LLC
- 222. Michael C. McQueeny, Outside Counsel - Ascend New Jersey LLC
- 223. Michael McQueeny, General Counsel to New Jersey Cannabis Trade Association
- 224. Michael Dalessio
- 225. Michael McClure
- 226. Michael Posey Sr.
- 227. Michael Schraft
- 228. Michael Tatch
- 229. Michelle
- 230. Michelle Harkins
- 231. Michelle Sparrow
- 232. Mike
- 233. Mike Menzella
- 234. Mitchell Colbert, Sustainability Lobbyist
- 235. Mladen
- 236. Moe Leifer
- 237. Monica Ycaza
- 238. Mr. No Drugs
- 239. Muthamouth

- 240. Nancy Kay
- 241. Natalie Diaz, Law Clerk to Ronald P. Mondello, Esq.
- 242. Nate Mehle, Ascension Cannabis Brands Co
- 243. Nathaniel Lopez
- 244. Nelson Amparo, Cannabis Entrepreneur
- 245. Nick
- 246. Nicole
- 247. Nicole McCormack
- 248. Nicole Pierantozzi
- 249. Nina Allen
- 250. Noreen Mikulski
- 251. Norman Makoujy
- 252. North Bay
- 253. Nova Gunn
- 254. Patricia Gregory, Pachter Gregory & Raffaldini
- 255. Patricia Guner
- 256. Paul P. Josephson, Duane Morris
- 257. Paula DeMaria
- 258. Paula Jones
- 259. Peter Avery
- 260. Peter Sandhaus
- 261. Peter Szlasa
- 262. Philip Hellman
- 263. Piyush Raval
- 264. Priya
- 265. Randy Lanier, Denver Cole
- 266. Rashid Taylor, Victorious Gardens
- 267. Ray King
- 268. Raymond F. Roberts
- 269. Regina Higgins
- 270. Reva Kaufman
- 271. Rhona Zhao
- 272. Richard Houlihan
- 273. Rita Teubner
- 274. Robert Aiello
- 275. Robert B. Comizzoli
- 276. Robert Gordon
- 277. Robert M. DiPisa
- 278. Robert Obernauer
- 279. Robert Scott
- 280. Rodney Holcombe, LeafLink
- 281. Rohith Kondeti
- 282. Ron
- 283. Ronald Gillhaus
- 284. Ronk Jan
- 285. Ronnette Henry, 3 Buds Holding Company LLC
- 286. Rose Wilson
- 287. Rosemarie Hargrove
- 288. Rosemarie Stone
- 289. Rosemary Milliman
- 290. Ross
- 291. Ruben
- 292. Ryan Shaner
- 293. Samantha
- 294. Samantha Louise York
- 295. Sandra Pohlman
- 296. Sandra S. Silverberg
- 297. Sandra Sloat
- 298. Sara Kelly
- 299. Sarah Ahrens, On behalf of: NJCBA Laboratory Testing Committee (personally: True Labs for Cannabis)
- 300. Sarah Powell, Florio Perrucci Steinhardt Cappelli Tipton & Taylor LLC
- 301. Scott Chipman, Citizens for Safe Neighborhoods

- 302. Sergey Manukhin
 - 303. Sevil Sabath
 - 304. Shaena Martinez
 - 305. Shaun Astorga, Happy Daze Boutique
 - 306. Sheila McLaughlin
 - 307. Shelee Saal
 - 308. Shenwei Zhao
 - 309. ShouldntBe Required
 - 310. Spyridoula Raikos
 - 311. Stacey Barber
 - 312. Stan Brez
 - 313. Steiner Moshe
 - 314. Stephen Hoelle
 - 315. Stephen Malone
 - 316. Steven E Park
 - 317. Susan Santino
 - 318. Susana Amorim
 - 319. Suzanne Ivans
 - 320. Syceria Stephens, High Vibes Delivery, Inc
 - 321. Tammy Collins
 - 322. Taylor Haas, Community Growth Partners
 - 323. Taylor J Godfrey
 - 324. Teddy Millot
 - 325. Theresa Wright
 - 326. Therese Jones
 - 327. Thomas Dale
 - 328. Thomas Fotino
 - 329. Thomas Wardan
 - 330. Tim Donovan
 - 331. Tim Fan
 - 332. Todd Wolf
 - 333. Tom Conchado, A Grow Culture
 - 334. Tracie Kritch
 - 335. Ur Paneshed
 - 336. Venkat Yaddanapudi
 - 337. Vicki Sibley
 - 338. Vincent
 - 339. Will Bowden
 - 340. Willard Varian, Blue Heron Pines Homeowners Association (Cannabis Committee)
 - 341. William Collis
 - 342. William Feliciano
 - 343. Yvonne Watkis, BodyWellness by Yvonne LLC
 - 344. Zev Brodt
 - 345. Zvi Ausfresser
- The following commenters submitted identical comments supporting the American Civil Liberty Union's public comments:
- 346. Fair Share Housing Center
 - 347. New Jersey Working Families
 - 348. Latino Action Network Foundation
 - 349. Integrated Justice Alliance
 - 350. NJ NORML
 - 351. Salvation and Social Justice
 - 352. New Jersey Working Families
 - 353. Doctors for Cannabis Regulation
 - 354. Unitarian Universalist FaithAction
 - 355. New Jersey Harm Reduction Coalition
 - 356. Coalition For Medical Marijuana, New Jersey
 - 357. New Jersey Alliance For Immigrant Justice
 - 358. New Jersey - Prison Justice Watch
 - 359. Action Together, New Jersey
 - 360. Our Revolution New Jersey
 - 361. Our Revolution. Trenton Mercer

ADOPTIONS

TREASURY—GENERAL

362. New Jersey Institute for Social Justice
363. New Jersey Policy Perspective.
364. New Jersey State Conference NAACP
365. Faith in New Jersey
366. Cherry Hill Women's Center
367. Carolyn
368. Shavar A.
369. Ibn-Umar Abbasparker
370. Khadijah Abdul-Ali
371. Phyllis Acadia
372. Paul Adams
373. Margie Adelson
374. Kristen Adorno
375. Mackenzie Ailes
376. Mackenzie Ailes
377. Alexandria Alcalá
378. Jennifer Alderson
379. Natalya Alekhina
380. Elias Aliferis
381. Julie Alley
382. Eve Allison
383. Isaac Altman
384. Meridith Ambrose
385. Joseph Ameen
386. Michelle Ancil
387. Kei Andersen
388. B. Anderson
389. Marygrace Anderson
390. Lisa Anderson
391. Courtney Anderson-Harvey
392. Charles Applegate
393. Stephanie Areizaga
394. Linda Ariel
395. Antoinette Askinasi
396. Matthew Atkins
397. Aliza Augustine
398. Princess Auralite
399. Mars Auslander
400. Joshua Aviles
401. Maura B.
402. Soorya B.
403. Ann Babb
404. Alex Bahour
405. Renee Bain
406. Curtis Baker
407. Kathleen Baker
408. Jerry Balabanian
409. Gregg Bangs
410. Maria Banta
411. Susan Barnes
412. Francesca Baroni
413. Bonnie Bayardi
414. Melanie Beckerman
415. Rebecca Beighley
416. Suzanne Bellofatto
417. Tracey Belsky
418. Cliff Bennette
419. Anat Benzvi
420. Gavin Bermingham
421. Izabella Bernard
422. Rose Bernard
423. Kenneth Berry
424. Nicole Beverly
425. Liz Binkley
426. Vanessa Birardi
427. Debra Black
428. Christine Blake
429. Virginia Blakeman
430. Linda Blatnik
431. Alicia Bloch-Chen
432. Jennifer Blum
433. Michelle Boddorff
434. Steven Boss
435. George Bourlotos
436. George Bourlotos
437. George Bourlotos
438. Autumn Boyce
439. William Boyd
440. Michelle Boylan
441. Lorraine Brabham
442. Sellena Bradley
443. Diana Braithwaite
444. Sharee Branch
445. Barbara Braun
446. Elizabeth Breedlove
447. Joni Brennan
448. Michael Brennan
449. Karen Breny
450. Mia Brickhouse
451. Marjorie Brickley
452. Alanna Brody
453. Jennifer Broekman
454. Janelle Brown
455. Andrea Brown
456. Al Brown
457. Jabari Brown
458. Diane Buehlmeier
459. Helen Bullen
460. Brandon Burrell
461. Elwood Burton
462. Paula Bushkoff
463. Shandiya Bynum
464. Stephanie C
465. Kelly Caffrey
466. J. Amos Caley
467. Sharon Callahan
468. John Callahan
469. Paul Campbell
470. Ronald Cannedy Jr.
471. Colleen Canyon
472. Samuel Caraballo
473. Carolyn Carbone
474. Michael Carney
475. George Carroll
476. Martin Carroll
477. Timothy Carroll
478. April Casler
479. Jessica Cerasani
480. Marvin Chartoff
481. Marvin Chartoff
482. Keith Chase
483. Justin Chernick
484. Diana Chica
485. Kelly Choi
486. Marilyn Cintron
487. Patricia Cipolla
488. Carol Ciszewski
489. Jarrett Cloud
490. Jonathon Cloyd
491. John Codd
492. Liz Cohen
493. Barbara Cole-Kiernan
494. Andrew Colletto
495. Jennifer Colombo
496. Emily Colosimo
497. Ellen Columbus
498. Jennifer Condron
499. James Connell
500. Marisa Connors
501. Karen Connolly
502. Alexandra Contini
503. Carol Cook
504. Kate Cook
505. Justine Cook
506. Patty Cooper
507. Patty Cooper
508. Clifford Corcoran
509. Juan Cortez
510. Anne Cowley
511. Donna Cox
512. Melissa Coy
513. Chris Coyle
514. Cheryl Craig
515. Julia Cranmer
516. Jana Crawford Obrien
517. John Crittenden
518. Latisha Crubaugh
519. Priscila Cruz
520. Nancy Cunningham
521. An Curtis
522. Mary Cusack
523. Francine D'Anna
524. Marie Danna
525. Lawrence Danson
526. John D'Arcy
527. Dominick Darpino
528. Susan Dauria
529. Knalidi Davies
530. Jason Davis
531. Amber Davis
532. Jerome Dawins
533. Daryl W. De Boer
534. Jesselly De La Cruz
535. John Degood
536. Allison Depuy
537. Donna Derewianyk
538. Roxanne Deutsch
539. Danika Devaux
540. Ann Dey
541. Mark Diekmann
542. Michael Diener
543. Alexander Dinell
544. John Dipace
545. Salam Diri
546. Bonnie Dolan
547. Patricia Douglas
548. Rachel Douglas
549. Dorothy Dozier
550. Matt Dragon
551. Victoria Druding
552. Kevin Dry
553. Diane Dubrule
554. Catherine Duckett
555. Betty Ann Duggan
556. John Dunn
557. Carol Edmonds
558. Peiman Eghbal
559. Margaret Ellis
560. Michael Errante
561. Iris Esformes
562. Lynne Essig
563. Ronald Esteppe
564. Michael Esterson
565. Kathleen Evans
566. Maria Evans
567. Tamara Evans
568. Jacob Fabel
569. Zahura Fairley
570. Joan Farber
571. Joan Farkas

572. Ashley Farreny
573. Susan Farro
574. Sophia Feiertag
575. Steven Fenster
576. Geordan Ferguson
577. Kathy Ferrier
578. Kathy Ferrier
579. Ashley Few
580. Lori Fine
581. Dennis Finlay
582. Jasmine Fleming
583. Carl Ford
584. John Ford
585. Glenn Formont
586. Robert Foster
587. Joann Fotheringham
588. Ethel Fowler
589. Robert Fox
590. Trevanne Foxton
591. Judith Foys
592. Melissa Friedman
593. Roberta Friedman
594. Doug Fritsch
595. Mary Froehlich
596. Paul Furfari
597. Jordan Gallion
598. Ethan Gambale
599. Carlos Garcia
600. Sandra Garcia
601. Megan Gargiulo
602. Bradley Garrarant
603. Eric Gaskill
604. Bryant Geissler
605. Debra Gemind
606. Leandra Gerena
607. Vince Germani
608. Yoyce Geronimo
609. Blaine Geyer
610. Candyce Giaquinto
611. Robert Gill
612. Nicole Gillespy
613. Ag Gilmore
614. Gina Giorgio
615. Lynn Giugno-Hansen
616. Karen Glass
617. Peter Godfrey
618. Sara Goetz
619. Frederick J. Goff
620. Moira Goldberg
621. Donald Goldberg
622. Herbert Goldstein
623. Alan Goldstein
624. Susan Good
625. Jennifer Gooley
626. Carole Gordon
627. Mongo Gots
628. Stephen Gough
629. Edward Gracely
630. Jessica Grady
631. Travis Gray
632. Ann Greek
633. Carol Greenberg
634. Bernardine Greene
635. Tina Gresham-Gomez
636. Victoria Gross
637. Kathy Grove
638. Marc Gruenbaum
639. Amy Grynberg
640. Pat Guenther
641. Bernard Gurman
642. Robin Gutkin
643. John Gwin
644. Christina H.
645. Darlene H.
646. William Hague
647. Brenda Haines
648. Rene Hajjar
649. Emily Hall
650. Wayne Hallard
651. Stephen Halpern
652. Kenneth Hamilton
653. Donald Hanek
654. Susan Hanlon
655. Ed Hannaman
656. Sharon Hardy
657. Ronald Harkov
658. Eugene Harley
659. Bill Harrison
660. John Harrison
661. Michelle Harrison
662. Michael Harrison
663. Leslie Harrison
664. Sherry Hartman-Apgar
665. Tammi Haynes
666. David Hayward
667. Evangeline Helmstetter
668. James Hemm
669. Nicole Henderson
670. Patricia Henry
671. Lauren Herman
672. Chauncey Herring, III
673. Caren Herzhauser
674. Casondra Hill
675. Linda Hirschman
676. Lauren Hirschmann
677. Patricia Hodgetts
678. Margaret Hodgkins
679. Heidi Hofer
680. Sean Hojnacki
681. Lindsay Holeman
682. Breon Holman
683. Braham Horwitz
684. William Howe
685. Susan Hubin
686. Harry Hudson
687. Elyla Huertas
688. Nora Hummel
689. Chris Hurlburt
690. Rebecca Hutcheon
691. John Hyman
692. Kim Iacucci
693. Diana Iglesias
694. Jene Irving
695. Jene Irving
696. Josette Jackson
697. Josette Jackson
698. Shannon Jacobs
699. Cynthia Jahn
700. Barbara James
701. Sameer Jaywant
702. Monika Jelonnek
703. Jamaul Jerido
704. Joe Johnson
705. Kenneth W Johnson
706. Bianca Johnson
707. Karen Johnson
708. Elizabeth Jones
709. David Juter
710. Pat Kalinowski
711. Joyce Kalison
712. Cassandra Kalley
713. Adam Kamenman
714. Larry Katz
715. Dr. Larry Katz
716. Melissa Kearsley
717. Mike Kelly
718. Theresa Kelly
719. R. Kelly
720. Daryian Kelton
721. Cassidy Kelton
722. Barbara Kennedy
723. Lindajo Kensingler
724. Bonnie Kerness
725. Bonnie Kerness
726. Virginia Kerr
727. Sandra King
728. Fawn King
729. Regan Kinon
730. Tevin Kirby
731. Amy Kleiman
732. Katherine Koch
733. Leona Konkel
734. Laurel Kornfeld
735. Ellen Kovac
736. Gabor Kover
737. Theodore Kramer
738. Richard Krause, II
739. Marcia Kravis
740. Anne Kuhn
741. Mark Kulkowitz
742. Jake La Fronz
743. Christopher Labaw
744. Warren Lackland
745. Warren Lackland
746. James Lacko
747. Julianna Laird
748. Patricia Lange
749. Alexis Langelotti
750. Lin Lapp
751. Kate Larkin
752. Chuck Latini Jr
753. Steven Laudano
754. George Lavecchia
755. JYH Lay
756. Arlene Lazar
757. Erin Leahy
758. Michael Lebrun
759. Anna Lee
760. Zachary Lehrhoff
761. Marcela Lenox
762. Michelle Lerner
763. Mark Lesko
764. Steven Lestition
765. Caroline Leung
766. Dan Levine
767. Andrew Levitas
768. Dorothy Libring
769. Irene Lieberman
770. Steven Lieberman
771. Molly Linhorst
772. Philip Lipari
773. Lucille Lo Sapio
774. Jeanne Locicero
775. Charles Loflin
776. Melissa Logan
777. Kimberly Lok Wong
778. James Lopez
779. Alexander Lopez
780. Janeen Louis
781. Harold Lowenfels

ADOPTIONS

TREASURY—GENERAL

782. Daniel Lucas
 783. Christiane Ludescher-Furth
 784. Kim Luke
 785. Shannon Lyon
 786. Denise Lytle
 787. Henry M.
 788. Ellen Maccabe
 789. Philip Mackey
 790. Rachael Madaio
 791. Criss Madd
 792. Ba Maddalena
 793. Sonja Madison
 794. Hayley Maged
 795. Robert Magee
 796. Kathleen Maher
 797. Tina Majewski
 798. Edward Majewski Jr
 799. Jasmine Malloy
 800. Stephen Malone
 801. Jared Mancinelli
 802. Mike Manne
 803. Nicholas Mantas
 804. Joe Marchica
 805. Elise Margulis
 806. Nancy Markalunas
 807. Geri Markowitz
 808. Jason Marquez
 809. Jeffrey Martin
 810. Linda Maslanko
 811. Richard Mason
 812. John Massaro
 813. Donald Masucci
 814. Gerry Masurat
 815. Philip Mathew
 816. Rebecca Mathis
 817. Dan Matlock
 818. Edward R Mayer
 819. Margret Mcburney
 820. Aimee Mccarthy
 821. Teresa Mcclure
 822. Charlie Mccullagh
 823. Scott McDowell
 824. Patrick Mcevoy
 825. Karen Mcguinness
 826. Eileen Mckeon
 827. Linda Mckillip
 828. JP Mcmanus
 829. Lyn Mcmeen
 830. Vanessa Mcnair
 831. Tanya Meacham
 832. Robert Meade
 833. Joan Medina
 834. Stacey Meli
 835. Jenna Mellor
 836. Ira Mendelsberg
 837. Sarah Mercuri
 838. Alicia Meulenstein
 839. Michael Meyers-Jouan
 840. Brittany Middleton
 841. Joan Miksitz
 842. Albert Mikutis
 843. Pete Miles
 844. Kerry Millan
 845. Karen Millen
 846. Richard Miller
 847. Brigitte Mimms
 848. Steve Minka
 849. Henry Mitchell
 850. Sriram Mohananthan
 851. Karen Moheban
 852. Alexandra Molan
 853. Scott Moore
 854. Bruce Moore
 855. Charity Moore
 856. Kate Moore-Gonzalez
 857. Sabrina Morales
 858. Thomas Moran
 859. Bert Morris
 860. Brian Moscatello
 861. Marilyn Mrykalo
 862. Margaret Mullen
 863. Patricia Mulligan
 864. Peter Mulshine
 865. Andrew Mumford
 866. Stephen Murray
 867. Rose Murray
 868. Cristina Nappi
 869. David Nathan
 870. Neddie Nather
 871. Taj Nazarali
 872. E. Neal
 873. Moira Nelson
 874. Paul Netusil
 875. Voters Of Tomorrow New Jersey
 876. Fred Nguyen
 877. William Nierstedt
 878. Luke Norris
 879. Gina Norton
 880. Kathy Notaro
 881. Ralph Notaro
 882. Mara Novak
 883. Tara Ocello
 884. Michael Odell
 885. John Ogrodowski
 886. Kate Oh
 887. Samuel Olivencia
 888. Jeremiah O'Neil
 889. Benjamin Onett
 890. Osbert Orduna
 891. Calandria Ortiz-Resende
 892. Monique Owens
 893. Cecilia Oyediran
 894. Nina P.
 895. Bradd P.
 896. Ashley Pacheco
 897. Judith Pack
 898. Lucio Palazzo
 899. Paul Palla
 900. Tim Palmer
 901. Demetrios Papadogonas
 902. Louise Passick
 903. Chirali Patel
 904. Deepak Patel
 905. Debra Patsel
 906. Francesca Pazniokas
 907. Kelsey Pecchia
 908. Margo Pellegrino
 909. Franklyn Perez
 910. Gilbert Perez
 911. Svenmark Peterson
 912. Alexandra Peterson
 913. Roy Petty
 914. Wilma Pfeffer
 915. John Phillips
 916. Katie Picano
 917. Anna Pickoff-White
 918. Sheryl Pierre
 919. Kevin Pierre
 920. Howard Pinhasik
 921. Todd Pisani
 922. Andrew Polhamus
 923. Robert Polillo
 924. Mary Ann Polini
 925. Kristen Poppo
 926. Frank Portolano
 927. Kristen Posso
 928. Robert Post
 929. Hercules Potamousis
 930. Malcolm Powers
 931. Laura Pressman-Mcnamara
 932. Mary Previterra
 933. Maryann Price
 934. Zachary Prince
 935. Anne Marie Principe
 936. Joan Pritchard
 937. James Pruden
 938. Kaitlyn Prutzman
 939. Rebecca Pugh
 940. Rita Raftery
 941. Gina Raggette
 942. Maia Raposo
 943. Saray Ramos
 944. Joann Ramos
 945. Valerie Ramshur
 946. Michael Ratner
 947. Elliot Redman
 948. Edward Reichman
 949. Dillon Reisman
 950. Liz Reisman
 951. Chris Repella
 952. Ellen Revesz
 953. Jesse Reyes
 954. Suzi Reynolds
 955. Karan Richardson
 956. Michael Richter
 957. Barbara Riehle
 958. Richard Riggs
 959. William Rilling
 960. Rebecca Rinald
 961. Patricia Rinehart
 962. Dorothy Ring
 963. Lois Riskin
 964. Cuqui Rivera
 965. Brady Rivera
 966. Lillian Rivera
 967. Victor Rivera
 968. Alexander Riviello
 969. Stacy Robbin
 970. Fatima Roberto
 971. Sharon Roberts
 972. Jamie Rocchoo
 973. Lisa Roche
 974. Nicole Rodriguez
 975. Marcel Rodriguez
 976. Alicia Rogers
 977. Patricia Rolston
 978. Robin Romanowski
 979. Michele Ronan
 980. Barbara Rood
 981. Rhoda Roper
 982. David Rose
 983. Stephen Rosen
 984. Arthur Rosenberg
 985. Art Rosenberg
 986. Miriam Rosenberg-Lee
 987. Norman Rosenblum
 988. A. Rossner
 989. Karen Rossner
 990. A Rossner
 991. Craig Rothacker

- 992. Laurence Rothman
- 993. Karen Rozmus
- 994. Harriett Rubin
- 995. Matthew Ruderman
- 996. John Ruhl
- 997. Karol Ruiz
- 998. Brian Russo
- 999. Michael Ryan
- 1000. Diana H Ryder
- 1001. Janet S
- 1002. Sab S.
- 1003. Claudia Sabine
- 1004. Julie Sacco
- 1005. Larry Salvatoriello
- 1006. Margaret Salvesen
- 1007. Julie Salwen
- 1008. Edwards Samantha
- 1009. David Samuels
- 1010. Joanne Sanda
- 1011. Claudia Sanders
- 1012. James Santomier Jr.
- 1013. Marcia Sass
- 1014. Laura Schafer
- 1015. Debbie Schepis
- 1016. Christine Schneeman
- 1017. Douglas Schneller
- 1018. Fred Schnitzer
- 1019. Megan Schramm
- 1020. John Schreiber
- 1021. Anne Schumann
- 1022. Kara Schwaller
- 1023. J. Schwart
- 1024. Randy Schwartz
- 1025. Jack Schwartz
- 1026. Frank Senior
- 1027. Steve Sharp
- 1028. Kim Shaub
- 1029. Pat Sherman
- 1030. L Ship
- 1031. George Shornack
- 1032. Karen Siefring
- 1033. David Silverglade
- 1034. Joan Silverman
- 1035. Joyce Simmons
- 1036. Ruth Simon
- 1037. Tanya Simon
- 1038. Frederick Simonson
- 1039. Bradley Sinclair Jr.
- 1040. Sharon Sinton
- 1041. Jeff Skopin
- 1042. Michael Slane
- 1043. David Smith
- 1044. Jaszmene Smith
- 1045. Amanda Smith
- 1046. Shirley Smith
- 1047. Richard Smith
- 1048. Kate Smith
- 1049. Jolene Smyers
- 1050. Simone Snyder
- 1051. Jonathan So
- 1052. Eliezer Sobel
- 1053. Beverly Solomon
- 1054. Loraine Soltis
- 1055. Dawn Sorrentino
- 1056. Alejandra Sorto
- 1057. Elizabeth Spears
- 1058. Martha Spizziri
- 1059. Bonnie Stanics
- 1060. Nc Starss
- 1061. Ruth Steinberg
- 1062. Nicole Stevens
- 1063. Karen Steward
- 1064. Janet Stewart
- 1065. Ryan Stiles
- 1066. B. Collene Stout
- 1067. Michael Stralka
- 1068. Carly Strunck
- 1069. Helen Stummer
- 1070. Mark Stutzbach
- 1071. Bethany Sutcliffe
- 1072. Kim Swaffield
- 1073. Carolyn Swayze
- 1074. Denise Swedeski
- 1075. Ronald Swirson
- 1076. Mazhar Syed
- 1077. Victor Sytzo
- 1078. Maria Tafi
- 1079. Denise Tatminov
- 1080. Joseph Taureck
- 1081. Sonya Tcherevkoff
- 1082. Amir Tillman
- 1083. Al Tino
- 1084. Karen Thompson
- 1085. James Tomori
- 1086. Carole Tonks
- 1087. Gabriel Traylor
- 1088. Joan Treske
- 1089. Fay Trisker
- 1090. Jack Tucci
- 1091. Lauren Tuchalski
- 1092. Brian Tuchalski
- 1093. June Tullman
- 1094. Daniel Turcich
- 1095. Ana Rosalynda Tyson
- 1096. Marleina Ubel
- 1097. Daniel Ulloa
- 1098. ACLU Supporter
- 1099. ACLU Supporter
- 1100. ACLU Supporter
- 1101. ACLU Supporter
- 1102. Estefania Valencia
- 1103. Sandy Van Sant
- 1104. Kathy Vanderee
- 1105. Edmund Venella
- 1106. Jennifer Vilchez
- 1107. Mike Villanova
- 1108. Kimberly Visconti
- 1109. Anna-Marta Visky
- 1110. Ray Vitale
- 1111. Liza W.
- 1112. Bethany Wagner
- 1113. Rahleek Walker
- 1114. Charlene Walker
- 1115. Risa Wallach
- 1116. Mark Waltzer
- 1117. Bernard Ward
- 1118. Keith Ware
- 1119. Sally Warner
- 1120. Stuart Way
- 1121. Hannah Webb
- 1122. Marilyn Wechselblat
- 1123. Kimi Wei
- 1124. Stuart Weinstock
- 1125. Ronald Weiss
- 1126. Daniel Weiss
- 1127. Ronald Weiss
- 1128. Stacie Welsh
- 1129. Eva West
- 1130. Michael West
- 1131. TJ Whitaker
- 1132. David White
- 1133. Jeffrey White
- 1134. Bradley Wiederspan
- 1135. Lorene Wilkerson
- 1136. Corie Williams
- 1137. Satava Williams
- 1138. Paul Williams
- 1139. Sandy Wilpon
- 1140. Madeline Wilson
- 1141. Loretta Wilson
- 1142. Ruby Wilson
- 1143. Julius Wilson
- 1144. Krista Winters
- 1145. Ken Wolski
- 1146. Rita Wright
- 1147. Christine Yap
- 1148. Lola Yona
- 1149. Jair Zevallos
- 1150. Mary Zikos
- 1151. Kristen Zoller
- 1152. Michael Zuckerman

General Support

1. COMMENT: Several commenters stated they were in support of the legalization of cannabis and/or in support of the laws and regulations of the Commission. (44, 47, 56, 79, 96, 132, 253, 257, 289, 298, 317, 337, and 342)

RESPONSE: The Commission acknowledges the commenters' support for the laws and regulations.

Lack of Request

2. COMMENT: Several commenters offered non-responsive statements and provided no requests to the Commission and/or provided statements beyond the scope of this rulemaking. (5, 43, 65, 100, 101, 146, 149, 206, 225, 232, 246, 263, 304, 309, 312, 313, and 339)

RESPONSE: The Commission acknowledges the commenters' statements, and no further response is necessary.

3. COMMENT: Several commenters state "The majority of NJ communities have been against cannabis dispensaries in their town." (51, 62, 155, 335, and 336)

4. COMMENT: Several commenters state "The Commission falsely anticipates that the rules will have a positive social benefit. More than 60% of NJ towns elected not to allow dispensaries in their town." (51, 62, 155, 335, and 336)

RESPONSE TO COMMENTS 3 AND 4: The legalization of cannabis for personal use was authorized by the New Jersey Legislature through the passage of the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act, P.L. 2021, c. 16 (N.J.S.A. 24:6I-31 et seq.) (CREAMM Act), and, therefore, no further response is necessary. It should be noted; however, that the CREAMM Act passed with support from legislators representing constituencies across the State, and the Question 1 referendum earned 67 percent (2,737,682 votes) to 33 percent (1,343,610 votes).

Legislative

5. COMMENT: Several commenters requested that the Commission legalize home grow of cannabis for both medical patients and personal use (4, 7, 16, 20, 31, 39, 41, 52, 54, 55, 58, 82, 93, 94, 95, 98, 114, 121, 125, 128, 152, 156, 158, 160, 161, 191, 205, 211, 224, 227, 243, 245, 247, 261, 267, 276, 287, 290, 314, 316, 319, 323, 328, 332, and 338)

RESPONSE: The Commission acknowledges the commenters' request for legalization of home grow. However, the allowance of home grow of cannabis can only be authorized by the New Jersey Legislature and is beyond the purview of the Commission's authority.

6. COMMENT: Several commenters stated that they are against the legalization of cannabis for personal use. (1, 2, 3, 10, 12, 17, 19, 21, 22, 23, 24, 29, 33, 38, 46, 49, 59, 64, 70, 75, 76, 81, 85, 86, 87, 88, 89, 92, 97, 102, 103, 109, 110, 111, 112, 115, 117, 118, 123, 138, 143, 145, 153, 154, 159, 164, 166, 169, 171, 183, 184, 200, 210, 212, 213, 218, 233, 237, 238, 250, 251, 262, 268, 269, 272, 283, 286, 287, 291, 297, 288, 303, 306, 318, 321, 326, 341, 344, and 345)

7. COMMENT: Two commenters object to all provisions in the Act and the proposed rules. (25 and 214)

8. COMMENT: Two commenters requested that cannabis be legalized. (9 and 226)

RESPONSE TO COMMENTS 6, 7, AND 8: The legalization of cannabis for personal use was authorized by the New Jersey Legislature through the passage of the CREAMM Act. Therefore, no further response is necessary.

9. COMMENT: Several commenters expressed concerns regarding individuals driving while intoxicated on cannabis. Some commenters suggested the need for increased law enforcement presence on roadways. Some commenters suggested the need for tests to determine cannabis use, and some commenters have questioned whether insurance rates will increase due to the increase of car accidents. (14, 28, 29, 37, 69, 71, 73, 80, 84, 126, 186, 201, 202, 215, 228, 235, 236, 250, 260, 273, 275, 279, 284, 292, 296, 310, 325, and 334)

RESPONSE: Driving under the influence laws exist in the State and fall under the purview of the New Jersey Office of the Attorney General (NJOAG) and local law enforcement. Each law enforcement agency determines its own priority of enforcement. Nothing in the Commission's existing, or proposed, rules would permit individuals to drive under the influence of cannabis. There are some existing tests and metrics that law enforcement use that seek to determine cannabis use. The drug and impairment testing industry are continuing to work on developing more accurate testing. Additionally, the Commission will continue to study this issue, in accordance with N.J.S.A. 24:6I-35.d(1).

10. COMMENT: Several commenters suggest that cannabis should have the same rules and restrictions as alcohol. The commenters state "[t]he advertising and market requirements for dispensaries should be at least as stringent as alcohol and tobacco advertising." (51, 62, 155, 214, 335, and 336)

11. COMMENT: Several commenters requested that cannabis have similar laws to alcohol. (178, 195, 255, and 287)

RESPONSE TO COMMENTS 10 AND 11: The New Jersey State Legislature did not add cannabis into the existing legal framework that regulates alcohol. Rather, the Legislature passed the CREAMM Act to regulate cannabis. Thus, the Commission's rules regulating cannabis are derived from the CREAMM Act, and not the alcoholic beverage laws.

12. COMMENT: Several commenters state that smoking cannabis should be restricted in public places. Additionally, some commenters expressed concern with the smell of cannabis and smoking in public. (14, 28, 37, 50, 67, 77, 78, 113, 116, 120, 168, 185, 229, 231, 236, 237, 240, 279, 287, 292, 294, 302, and 325)

RESPONSE: The CREAMM Act, under the statutory provision N.J.S.A. 2C:35-10a(c), prohibits a person from smoking, vaping, or aerosolizing a cannabis item in any public place pursuant to law that prohibits the smoking of tobacco in any indoor public place, excluding several exceptions.

13. COMMENT: Several commenters state that there needs to be restrictions placed on smoking in apartment complexes or multi-family housing. (6, 105, and 119)

14. COMMENT: One commenter requests that the CRC rectify "the aspect of the law that allows landlords to prohibit cannabis consumption on their property." The commenter states that this is "unfair to those who cannot afford to own their own homes," and "can potentially lose their living space if they consume cannabis in their own apartments." (314)

RESPONSE TO COMMENTS 13 AND 14: Under the CREAMM Act, N.J.S.A. 2C:35-10a(c), the person or entity that owns or controls multi-family housing that is a multiple dwelling may prohibit or otherwise regulate the smoking, vaping, or aerosolizing of personal use cannabis items.

15. COMMENT: One commenter opposes, in part, the proposal to exclude license applications from public disclosure pursuant to the Open Public Records Act (OPRA). The commenter states the "public has a right to know the names and relevant experience of the people who have received permission to operate a cannabis business within their communities, and the key experts and personnel on which they rely." Additionally, the commenter states this "right to know supersede any right to 'privacy' of the applicant, in that this information can help insure that local governments are operating with integrity and solely in the best interest of the community." The commenter implores "the CRC to act cautiously and not cloak this process in darkness, thereby increasing the potential for corruption or less than ethical dealings." (91)

16. COMMENT: One commenter states that on page 111 of the Commission's proposed re-adoption, "[a]pplications should be subject to OPRA at any point in the process." The commenter further states "that the public has a right to know and may have material knowledge for CRC regarding applicant's background contrary to or omitted by applicant not otherwise apparent to the CRC." (214)

RESPONSE TO COMMENTS 15 AND 16: The Commission is required to abide by the requirements imposed by New Jersey law. The CREAMM Act, at N.J.S.A. 24:6I-36.d(5), exempts adult use cannabis business applications from the Open Public Records Act and the common law concerning access to government records.

17. COMMENT: One commenter states that towns, such as Cherry Hill, should not be allowed to ban cannabis retailers. (175)

RESPONSE: The Commission is required to abide by the requirements imposed by New Jersey law. N.J.S.A. 24:6I-45.b allows municipalities to prohibit the operation of any one or more classes of cannabis business.

18. COMMENT: Several commenters request that prior offenses should be expunged and one of the commenters states "anyone who has been jailed for possessing, selling or using [cannabis] should be immediately exculpated, released from jail and their criminal record relating to conviction for any of these activities should be immediately expunged." Another commenter states "[s]pecial consideration must be given to those most harmed by injustices of the carceral system around Cannabis. There must be equitable and just opportunities for people to have their records expunged and thus have the ability to license and sell Cannabis." (26, 180, 204, and 308)

RESPONSE: Implementation of the criminal justice and expungement provisions of the CREAMM Act is not within the Commission's purview. The Office of the Attorney General issued Attorney General Law Enforcement Directive No. 2021-1 in February 2021, to implement these provisions; the New Jersey Supreme Court performed an automatic expungement of more than 362,000 offenses in September 2021, along with dismissing pending cases, canceling active warrants, and releasing 1,200 people from probation after their cases were expunged; while others continue to petition the courts for additional expungements. The creation of the Social Equity Business category with its paths designed to assist those who have been convicted of marijuana-related offenses and those who have lived in municipalities that were disproportionately harmed by the criminalization of marijuana are some of the efforts the CRC is using to repair the injustice faced by those most harmed by the carceral system around cannabis. The Office of Minority, Disabled Veterans, and Women Cannabis Business Development will continue to implement further measures designed to promote opportunities for the target population.

19. COMMENT: One commenter states that New Jersey has made a lot of changes in legalizing cannabis, but believes it is time to "slow down and review the progress." The commenter requests that the Commission discuss, more inclusively with people, before moving forward to add more changes to the rules. (331)

RESPONSE: The Commission has implemented the CREAMM Act and has considered inclusive public and stakeholder input in its policymaking in many forms, including in this public comment process.

Ethics

20. COMMENT: One commenter states that “[a] mayor or any politician should not be selling Marijuana near where they were elected to serve. Because they determine who gets licenses they may limit new businesses or their competition.” (147)

RESPONSE: N.J.A.C. 17:30-5.1(i) prohibits county and municipal government officials from soliciting or receiving anything of value from a cannabis business seeking local support or taking any other action that would violate the Local Government Ethics Law.

21. COMMENT: One commenter states “[e]thics laws for all state, county and town employees need to forbid the investment in or profit from the sale of cannabis. Otherwise, any rules and regulations could potentially be not enforced or short circuited.” (185)

RESPONSE: The CREAMM Act provides ethical laws for the Commission and some State employees regarding the investment in, or profiting from, the sale of cannabis pursuant to N.J.S.A. 24:6I-26, 27, 28, and 29; and 52:13D-13 and 17.2. Additionally, N.J.A.C. 17:30-5.1(i) prohibits local officials from taking any action that would violate the Local Government Ethics Law.

22. COMMENT: One commenter states, “[a]ny person who has financially or career benefitted from enforcing the former laws of illegal cannabis should be prohibited from financially benefitting from the sale of cannabis. They should not own or be permitted to work in the cannabis industry.” (170)

RESPONSE: The CREAMM Act does not include “previous law enforcement background” in the criteria that might bar an applicant from applying for a cannabis business license.

Funding

23. COMMENT: Several commenters expressed the need for more funding for cannabis businesses. (134, 207, and 243)

RESPONSE: The Commission, along with the Office of Minority, Disabled Veterans, and Women Cannabis Business Development, which was established by the CREAMM Act, continues to research and consider the disbursement of additional funding for cannabis businesses.

24. COMMENT: Several commenters expressed the need for funds to be used for more research on the impact on cannabis, and to provide for those with substance abuse issues. (15, 37, 131, 214, 271, 293, 330, and 334)

25. COMMENT: One commenter states, “any proceeds from the sales of cannabis’ should go into a single fund designed to help those who have a problem with substance abuse.” (192)

RESPONSE: The Commission continues to research and consider the disbursement of funding. N.J.S.A. 24:6I-50 requires the Commission to deposit all fees, penalties, and tax revenues on retail sales of cannabis items into a special non-lapsing fund, known as the “Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Fund.” The Legislature and the Governor appropriate monies in the fund pursuant to the requirements of the statute including investments and financial assistance to municipalities defined as an “impact zone,” as well as direct financial assistance to qualifying persons residing therein as recommended by the Commission.

Consumption lounges

26. COMMENT: Three commenters propose that the “CRC adopt—even if only on an interim basis—the rules and regulations governing consumption lounges from the Nevada Cannabis Control Board (CCB).” The commenters state that “the CCB boasted that these rules were the result of a several month-long process that included 15 public meetings and workshops as well as a comprehensive study detailing the feasibility and safe implementation of this license type.” One of the commenters state that “implementing consumption lounges places new adult-use Class 5 Retail Licenses on even footing with Expanded ATCs, giving women-owned and led companies” providing the “rightful opportunity to compete with MSO’s [Multi-State Operators] for consumers all experiencing consumption lounges for the first time.” (187, 221, and 223)

RESPONSE: The current rulemaking does not include the implementation of the consumption lounges provisions. However, the Commission, at its December 2, 2022 meeting, voted to approve proposed Rules on cannabis consumption areas consistent with N.J.S.A. 24:6I-21. See Resolution 2022-57.

Workplace Impairment

27. COMMENT: One commenter requested that the CRC continue to allow all medical employers to test their employees for cannabis. The commenter states that “cannabis impairs cognitive function which is essential for health care workers as first responders of medical emergencies who have to have a clear mind to evaluate and treat patients for their best outcome.” (270)

RESPONSE: Nothing in the rulemaking prohibits employers from testing employees for cannabis metabolites; however, N.J.S.A. 24:6I-52 limits the circumstances under which employers may conduct such tests. Testing urine or blood for non-psychoactive cannabis metabolites, including 11-nor-9-carboxy-THC/Carboxy THC (THC-COOH), does not accurately measure cognitive impairment resulting from cannabis use. Cognitive impairment tests, such as psychomotor acuity tests and ocular scans are more predictive of impairment. This rulemaking and the accompanying Guidance at <https://njac.org/download/Library/News%20-%20Related%20Attachments/NJCRC-Guidance-on-Workplace-Impairment.pdf> continues to allow employers to utilize bodily fluid testing for cannabis so long as additional criteria is met.

28. COMMENT: One commenter stated that employer drug testing should not be allowed since cannabis has been legalized. (32)

RESPONSE: N.J.S.A. 24:6I-52 allows an employer to drug test a current or prospective employee, including after an employer has found there is reasonable suspicion of impairment, based on evidence-based protocols for documenting observed behavior and physical signs of impairment, including the use of a cognitive impairment test, a scientifically valid, objective, consistently repeatable, standardized automated test of an employee’s impairment, such as a psychomotor acuity test and/or an ocular scan.

29. COMMENT: One commenter reviewed the CRC’s workplace impairment notice and states the CRC should not give a false impression that somehow New Jersey law exempts these employers and employees. A positive test for marijuana is grounds for termination under these laws and no reasonable suspicion may be required. (60)

RESPONSE: N.J.S.A. 24:6I-52.a(1) mandates that “an employee shall not be subject to any adverse action by an employer solely due to the presence of cannabinoid metabolites in the employee’s bodily fluid from engaging in conduct permitted under the CREAMM Act.” Thus, a mere “positive test for marijuana” is not grounds for termination, by itself. N.J.S.A. 24:6I-52 allows an employer to drug-test a current or prospective employee, including after an employer has found there is reasonable suspicion of impairment, based on evidence-based protocols for documenting observed behavior and physical signs of impairment, including the use of a cognitive impairment test, a scientifically valid, objective, consistently repeatable, and standardized automated test of an employee’s impairment, such as a psychomotor acuity test and/or an ocular scan.

Home Delivery

30. COMMENT: One commenter states “[c]annabis delivery companies need to be able to delivery not only to adult use consumers but also to Medical marijuana patients.” (320)

RESPONSE: Pursuant to the Commission’s Board Resolution 2022-34, Alternative Treatment Centers have the ability to deliver medical cannabis to patients.

31. COMMENT: Three commenters requested the availability of online delivery of cannabis. (196, 248, and 276)

RESPONSE: Nothing in the Commission’s rules at adoption prevents a cannabis retailer or cannabis delivery service from using an online platform to facilitate its delivery of cannabis items to consumers.

Medical

32. COMMENT: One commenter states “Redefine medical canopy to align with Adult-Use definition of “mature cannabis plant grow canopy area.” (129)

RESPONSE: This rulemaking only amends the Commission's personal use rules. The Commission plans to release a future rulemaking to amend the existing medical cannabis rules at N.J.A.C. 17:30A.

33. COMMENT: Several commenters had concerns regarding the medical allotment limits. One of the commenters requested, "Please raise the allotment from 3 ounces to 4 ounces for medical patients." One of the commenters asked why medical is capped at three ounces a month when adult use is capped at one ounce. (40, 54, 90, 135, and 163)

RESPONSE: This rulemaking only amends the Commission's personal use rules. In a future rulemaking to the medical cannabis rules, the Commission will consider public feedback on the patient allotment. It should be noted; however, that the statute, at N.J.S.A. 24:6I-10.f(1), states "the maximum amount of usable cannabis that a patient may be dispensed, in weight, in a 30-day period, shall be three ounces."

34. COMMENT: One commenter states "I believe there needs to be an actual separation between the requirements for recreational and medical cannabis. Having Multi-State Operators grow for both medical and recreational consumers is problematic, especially when their main revenue is based on the larger recreational market. The loss of necessary cannabis genetics and the lack of quality that is necessary for medicinal consumption, are just two of the main issues that medical patients are facing today. If more focus was put on having an educated craft microbusiness market run by patients, not only would that bring true equity and inclusion into the cannabis space but also, we would be creating a diverse market that can and will blossom once federal legalization happens." (203)

RESPONSE: Not all existing ATCs have converted into Expanded ATCs and add personal adult-use cannabis licenses. In the future, there will be additional permitting of ATCs, that will also focus on the medical cannabis industry.

35. COMMENT: One commenter asks, "Is there any chance of joining with other states that have medical marijuana and be able to reciprocate using card in out of state dispensaries while traveling?" (18)

RESPONSE This rulemaking only amends the personal use rules. N.J.S.A. 24:6I-5.3 authorizes reciprocity, and in a future rulemaking to the medical cannabis rules, the Commission will consider public feedback on reciprocity.

36. COMMENT: One commenter suggests that if the existing ATCs are exempt from the social equity excise fee, corresponding medical excise fees should apply to them. The commenter states that money should be invested in research and development for medical cannabis. Funds should be given to terminally ill patients and their families to pay for palliative care and the medical cannabis products they need. (45)

RESPONSE: This rulemaking only amends the Commission's personal use rules. In a future rulemaking to the medical cannabis rules, the Commission will consider public feedback on a medical excise fee, medical cannabis research and development, and terminal patient funding. However, expanded ATCs are not exempt from the social equity excise fee imposed on the cultivation of personal-use cannabis.

37. COMMENT: One commenter states that the Commission needs "to confirm the upper limit on medical." The commenter states that in Massachusetts, "over the limit tests can be sold to Medical programs." (61)

RESPONSE: This rulemaking only amends the Commission's personal use rules. In a future rulemaking to the medical cannabis rules, the Commission will consider public feedback on medical cannabis rules.

38. COMMENT: One commenter states that due "to the limit of actual Recreational cultivators and retail outlets available to a cannabis Class 2 manufacturers presently, said manufacturer should also be allowed to manufacture medical cannabis products." The commenter suggests additional language that allows a Class 2 cannabis manufacturer to make medical cannabis products pursuant to Subchapter 11. (61)

RESPONSE: This rulemaking only amends the Commission's personal use rules. In a future rulemaking to the medical cannabis rules, the CRC will consider public feedback on medical cannabis rules.

Hemp

39. COMMENT: One commenter states that pursuant to the Marketplace Regulation Pertaining to Hemp and Permissive Licensing in the New Jersey Hemp Program. (N.J.S.A. 24:6I-35 and 24:6I-46), a

manufacturer who qualifies pursuant to the CRC licensing procedures should automatically qualify for the hemp license within the State upon completion of the appropriate paperwork. (61)

RESPONSE: Rules relating to hemp are not within the purview of the Commission. The New Jersey Department of Agriculture promulgates the rules related to the hemp licensing program.

Prices

40. COMMENT: Several commenters stated that the prices for medical and/or recreational cannabis need to be more affordable. (31, 54, 90, 94, 95, 104, 133, 163, 175, 177, 179, 193, 224, 239, 243, 287, 295, 311, 323, and 327)

RESPONSE: The Commission continuously engages in efforts to lower the cost burden for patients and consumers, which includes the additional licensing of Alternative Treatment Centers and cannabis businesses in an effort to increase the supply of both medical and personal use cannabis. Theoretically, prices for cannabis should reduce as more cannabis businesses open and there is more competition in the market.

Potency

41. COMMENT: Several commenters requested a cap on high potency THC products. (72, 86, 99, 171, and 215)

RESPONSE: The CREAMM Act does not impose a cap on high potency THC products. However, to protect consumer safety, pursuant to N.J.A.C. 17:30-16.3(c)2, the Commission requires warning labels for all cannabis items that contain a total THC percentage of greater than 40 percent. Additionally, the Commission has determined that capping potency leads to the addition of more excipient or inactive ingredients in manufactured products. Following the E-cigarette or Vaping Use-Associated Lung Injury (EVALI) outbreaks that occurred in 2019 and early 2020, the Division of Medicinal Marijuana in the New Jersey Department of Health (Division) thoroughly reviewed cannabis vape products, their formulations, and ingredients. EVALI was most likely caused by excipient ingredients, particularly Vitamin E Acetate, which was used as a thickening agent in vape products mostly produced and purchased through unregulated and informal means. Vitamin E Acetate was not present in any regulated New Jersey products, and no cases were linked to regulated New Jersey sources. The Division's research concluded that while 1) there was some evidence that high potency products may be correlated with increased risk of psychosis in some individuals; and 2) there was no evidence to suggest that a cap on potency would mitigate those risks—there's no evidence that suggests a specific limit on potency (like 60 percent that has been legislated in some states) would mitigate that correlation. Furthermore, there is evidence that some of the excipient ingredients utilized to limit potency could have unintended consequences. Terpenes, for example, which are generally viewed as positive by cannabis consumers and naturally occur in the cannabis plant, can be irritants in high concentrations and when heated to high temperatures. Additionally, there's little evidence to support the safety of other excipient additives in vaporized or aerosolized formulations. Due to these findings, the Commission's rules focus on limiting excipient ingredients in inhalable formulations and aligning concentrations of additives, such as terpenes to concentration levels as found in the natural plant. Capping potency would require manufacturers to add more excipient ingredients to meet that cap. As such, no changes will be made upon adoption in response to the comments.

42. COMMENT: One commenter requested the THC and CBD amounts to be increased. (130)

RESPONSE: The Commission has determined that the THC amounts within the rules are sufficient to protect consumer safety. Therefore, no changes will be made upon adoption.

43. COMMENT: Two commenters expressed concern with THC potency and urges the Commission to require a responsible vendor training program (RVT) for all medical and retail dispensary employees to be conducted by an unaffiliated third-party educational provider certified by the CRC. (72 and 99)

RESPONSE: The Commission has determined that the training requirements within the rules are sufficient to protect consumer safety. Therefore, no changes will be made upon adoption.

Taxes

44. COMMENT: One commenter states “I believe that marijuana sales should be taxed, but not over 10%. This substance is meant to help those who suffer with anxiety and it can benefit in raising confidence if used right.” (122)

45. COMMENT: One commenter asked why are there town/municipality taxes for medical patients when it was announced there would be no taxes on July 1? (315)

RESPONSE TO COMMENTS 44 AND 45: The general taxation of medical and personal use cannabis is controlled by the Jake Honig Compassionate Use Act and the CREAMM Act and implemented by the New Jersey Department of the Treasury, Division of Taxation. It should be noted however, that although municipalities set their own tax rates, there are no State taxes on medicinal cannabis.

Licensing, Generally

46. COMMENT: One commenter requests the Commission to expand ATCs for north New Jersey. (249)

RESPONSE: The permitting of the 2019 request for applications (RFA) applicants will expand the number of ATCs in north Jersey, as will future permitting of ATCs.

47. COMMENT: Several commenters request the Commission to issue more licenses. (16, 173, 230, 243, and 281)

RESPONSE: As of the date of this rulemaking, the Commission has issued 954 conditional personal use cannabis business licenses. Additionally, the Commission has approved 22 applications to convert from a conditional to an annual license, and has awarded 28 annual personal use cannabis business licenses. The Commission will continue to issue licenses in a rolling application process.

48. COMMENT: In regard to new license classes, one commenter is “thrilled to see the Commission begin the endeavor of licensing the remaining license classes.” However, the commenter strongly “encourages the Commission to separate out the current license applicants for review so that those still in the queue or responding to deficiencies are not relegated to the bottom by new, higher priority applications.” (217)

RESPONSE: The Commission follows its prioritization rules for each class and type of license in its Final Notice of Application Acceptance. See <https://www.nj.gov/cannabis/documents/businesses/personal-use/Final%20Notice%20of%20Application%20Acceptance.pdf>.

Sales to Minors

49. COMMENT: Several commenters have expressed concern regarding sales to minors and state that no one under 21 years of age should be able to purchase cannabis. Some commenters expressed concerns regarding minors who use cannabis. (57, 80, 144, 185, 214, 240, 264, 308, and 334)

RESPONSE: N.J.A.C. 17:30-9.5(d) and the CREAMM Act, at N.J.S.A. 2C:35-10d, prohibit sales to individuals under 21 years of age.

Public Comment Period

50. COMMENT: Several commenters requested an extension of the public comment period because the provisions are complicated, affect public health and safety, and are against Federal Law. Additionally, some commenters state that “All of these rules have been written and reviewed by active participants in the cannabis industry. However, it has lacked sufficient review by the average voting public in NJ. The CRC needs to actively bring these rules to communities and extend the comment period.” (25, 51, 60, 62, 142, 155, 162, 174, 189, 190, 199, 214, 216, 259, 274, 301, 307, 335, and 336)

RESPONSE: N.J.A.C. 17:30-3.10(b) states that “If, within 30 days of the publication of a notice of proposal, sufficient public interest is demonstrated in an extension of the time for submissions, the Commission shall provide an additional 30-day period for the receipt of submissions by interested parties.” At N.J.A.C. 17:30-3.10(c), “sufficient public interest for granting an extension of the public comment period exists when: 1. One hundred or more individuals have: i. Communicated the need for the extension of the public comment period in writing, legible and intelligible, to the Commission; ii. At least 50 of the individuals shall have specified in their written communications, an objection to at least one provision of the proposed rule; and iii. All written communications

have been directed to the individual who has been designated, on behalf of the Commission, to receive comments in the notice of proposal.” As less than 100 commenters have requested an extension of the public comment period, sufficient public interest was not demonstrated. As such, the Commission did not extend the 60-day public comment period past the September 30, 2022 deadline.

Notice of Proposed Readoption and Impact Statements

51. COMMENT: Several commenters state that the link nj.gov/cannabis/proposed-updated-rules, which was provided on page 1 of the Commission’s notice of proposed readoption of specially adopted rules with amendments “does not connect to the comment form.” (60, 214, and 301)

RESPONSE: The provided link brought commenters to the Commission’s website, which contained the Commission’s proposed readoption on a separate tab. Additionally, the Commission conducted public outreach through a news outlet press release, the Commission’s electronic mailing list, and the Commission’s social media accounts, to notify the public about the submission of public comments and the corresponding deadline. It should be noted due to the public outreach conducted, the Commission received comments from 345 separate commenters, as well as an additional 807 comments, supporting ACLU’s recommendations.

52. COMMENT: One commenter states that the Commission’s Economic Impact statement provided in its proposed readoption failed to provide a “cost analyses or estimate of taxpayer burden for these schemes.” The commenter cites the following link Pub.njleg.state.nj.us/Bills/2020/S0500/21_E1.PDF, and states “insufficient” which says “undetermined.” (214)

RESPONSE: N.J.A.C. 1:30-5.1(c)3 requires the Commission to provide an Economic Impact statement that describes the expected costs, revenues, and other economic impact upon governmental bodies of the State, and particularly any segments of the public proposed to be regulated. In its notice of proposed readoption, 54 N.J.R. 1470(a), the Commission clearly complied with N.J.A.C. 1:30-5.1(c)3, as it stated it anticipated that the rules “will result in an economic benefit for the residents of the State.” The Commission further described the expected costs and revenues within its Economic Impact statement.

53. COMMENT: One commenter states, “Keep in the Federal Standards Analysis. You must also warn people about the federal laws that effect marijuana and employment. Those federal laws include: 1. Nuclear facility employers 2. Military 3. Federal employees 4. All modes of transportation—transit, commercial motor vehicles, maritime, pipelines, airlines, railroads.” (60)

RESPONSE: The Commission provided the necessary Federal standards analysis in its notice of proposed readoption, 54 N.J.R. 1470(a), as required at N.J.A.C. 1:30-5.1(c)4, as it addressed whether the rules included standards or requirements that exceed standards or requirements imposed by Federal law. Additionally, regarding the commenter’s note on Federal employment, the CREAMM Act, at N.J.S.A. 24:61-52.6(1)(b), created a Federal carve-out, which states that if the requirements of the law “result in a provable adverse impact on an employer subject to the requirements of a federal contract, then the employer may revise their employee prohibitions consistent with federal law, rules, and regulations.”

54. COMMENT: One commenter states that on Page 28 of the Commission’s notice of proposed readoption, the Agricultural Impact statement fails to mention “the severe environmental and agricultural detriments,” including the toxicity to soil and water that occurs from all types of cannabis grows. (214)

RESPONSE: The Commission provided the necessary Agriculture Industry Impact statement in its notice of proposed readoption, 54 N.J.R. 1470(a), as required at N.J.A.C. 1:30-5.1(c)6, as the Commission set forth the nature of the impact of the proposed rule on the agriculture industry.

55. COMMENT: One commenter requests that, on Page 14 of the Commission’s notice of proposed readoption, the Commission correct the following sentence, “Social Equity Excise Fees to raise funds that ‘will’ be appropriated to initiatives such as educational support, not ‘can’ be appropriated.” (214)

RESPONSE: The Commission provided the necessary Social Impact statement in its notice of proposed readoption, 54 N.J.R. 1470(a), as

required at N.J.A.C. 1:30-5.1(c)2. An additional social impact statement is not required in this rulemaking. As such, the commenter's requested revision will not be implemented.

Miscellaneous

56. COMMENT: One commenter states, "I think if you want to change policy, you need to put it for a vote before the voters on a ballot not just comments in a discreet place where nobody is paying attention. I object to any changes without it be placed on a ballot." (258)

RESPONSE: The New Jersey Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., does not require a rulemaking to be submitted to the voters as a referendum. Thus, the Commission has followed all laws and requirements when it published the notice of proposed reoption, at 54 N.J.R. 1470(a), as well as this notice of adoption.

57. COMMENT: Two commenters state concern regarding quality of the products sold in stores. One of the commenters state that "There are a lot of chemicals used in mass manufacturing of cannabis products, specifically Delta 8 and Delta 10 THC flower and vapor cartridges." The commenter requests cannabis products sold in recreational shops be grown and processed organically, without the use of pesticides and other harsh chemicals. (165 and 323)

RESPONSE: The rulemaking includes significant testing requirements to ensure they are free of a long list of prohibited substances. N.J.A.C. 17:30-10.9 prohibits the use of any pesticides in cannabis cultivation, except "minimum risk" pesticides, as determined by the United States Environmental Protection Agency in accordance with 40 CFR 152.25(f).

58. COMMENT: One commenter encouraged the Commission to study other states to ensure a successful rollout. (198)

RESPONSE: In the process of drafting this rulemaking, the Commission is implementing the requirements of the CREAMM Act, while considering public input, and reviewing other New Jersey areas of law, as well as other states' personal use cannabis regulations.

59. COMMENT: Two commenters state a need for a tracking system to ensure consumers are not exceeding their one ounce personal use cannabis limitations. One of the commenters state that "there are more harms and danger to have Cannabis around us legally, hence its availability should be controlled and monitored, with the tracking of the names of who buy Cannabis, with limits on quantity one can get." (214 and 324)

RESPONSE: N.J.S.A. 24:61-35.b limits the amount of personal information the Commission may require that a cannabis business can collect from a consumer to "information typically acquired in a financial transaction conducted by the holder of a Class C retail license concerning alcoholic beverages as set forth in R.S.33:1-12." Further, N.J.A.C. 17:30-14.3(d) and (e) and 15.2(d) and (e) mandate that a cannabis retailer or a cannabis delivery service may not sell more than one ounce of usable cannabis to a consumer, and that the retailer or delivery service must "make a good faith effort to prevent a consumer from exceeding one ounce of usable cannabis or the equivalent weight in cannabis products, in multiple sales transactions."

60. COMMENT: One commenter asked several questions regarding different CBD strains and corresponding liability on licensed massage therapists for clients bringing in their own CBD oil. (343)

RESPONSE: As the Commission does not regulate CBD in products that are not cannabis items or oversee the massage therapy industry, the commenter's questions fall beyond the scope of this rulemaking and no response is required.

61. COMMENT: One commenter states: "Please add to the regulatory body one or more neurologists and neurosurgeons who represent the evidence to be shared about the impact on the brains of regular users of cannabis, as well as how their behaviors impact public health, employment and family relations. Long term studies need to be conducted for adolescents and teenagers on the access they gained to cannabis through legalization and what impact this has had on educational outcomes." (131)

RESPONSE: This rulemaking does not address staffing and the hiring of new Commission employees. Thus, the commenter's request falls beyond the scope of this rulemaking. It should be noted, however, that the members of the Commission are prescribed by statute, at N.J.S.A. 24:61-24. Additionally, the Commission is aware of the need for more studies

on adolescents and will continue to monitor the latest available scientifically reliable information to inform future rulemaking on the issue, if necessary.

62. COMMENT: One commenter requests more transparency from the CRC and asked whether providing priority status to minority-owned businesses have had a beneficial impact. (271)

RESPONSE: The Commission produces and provides copious materials describing the progress of the licensing process and includes them as attached materials for each of the monthly public board meetings. Additionally, the Commission places the updates on its website after each meeting. The existing process has led to a high level of participation in the licensing process by target populations.

63. COMMENT: One commenter states that dispensaries need to increase product selection and improve wait times. (16)

RESPONSE: Every individual cannabis business makes its own business policies. This rulemaking includes rules that encourage cannabis retailers to provide a large variety of cannabis items, to hire and train additional staff quickly, and to expand their facility footprint if its services are not meeting its consumer demand.

Subchapter 1—Definitions

64. COMMENT: One commenter states that on page 35 (definition of "advertisement"), no cannabis business "should be allowed for Adopt-A-Highway." (214)

RESPONSE: The Adopt-A-Highway program is within the purview of the New Jersey Department of Transportation and the New Jersey Clean Communities Council.

65. COMMENT: One commenter requested a definition for "cannabis beverage" and suggested the following definition: "Cannabis beverage" means a cannabis-infused product that is a liquid beverage for which the intended use is oral consumption. (219)

RESPONSE: The term "cannabis beverage" is not included in this rulemaking. It should be noted, however, that the Commission has the statutory authority to authorize cannabis beverages as an additional form and may consider to do so in the future, if there remains a clear public desire to authorize cannabis beverages.

66. COMMENT: One commenter suggested adding a definition for "cannabis waste." The commenter stated that "it is entirely unclear if 'cannabis waste' is defined anywhere in New Jersey State statutes, and that is highly problematic." For example, in California, "cannabis waste" is defined as "any material intended for disposal that contains cannabis but is not otherwise considered a hazardous waste. Cannabis waste consisting solely of plant material shall be considered an organic waste as defined in Public Resources Code section 42649.8(d)." Colorado is even more explicit with definitions for both "fibrous waste" and "marijuana consumer waste." "Fibrous waste" is defined as "any roots, stalks, and stems from a regulated marijuana plant," and "marijuana consumer waste" is "any component left after the consumption of a regulated marijuana product, including but not limited to containers, packages, cartridges, pods, cups, batteries, all-in-one disposable devices, and any other waste component left after the regulated marijuana is consumed." (234)

RESPONSE: The plain language meaning of "cannabis waste" is sufficient within the context of this chapter. N.J.A.C. 17:30-9.14 differentiates between waste disposal processes for hazardous and non-hazardous waste. Thus, no changes will be made upon adoption.

67. COMMENT: One commenter states that in the definition of "employees," the Commission did not provide a definition of intern. The commenter further states "potshop interns potentially violate the FLSA." (214)

RESPONSE: The definition of "intern" is the plain language meaning of a temporary paid or unpaid student employee associated with an educational institution seeking to gain work experience. Regarding the Federal Fair Labor Standards Act (FLSA), the Commission addressed the intersection of State and Federal law in its notice of proposal. See 54 N.J.R. 1470(a).

68. COMMENT: One commenter states that the proposed rules "now define an 'employee' to include paid or unpaid interns. Respectfully, we disagree with the Commission on this addition and recommend the inclusion of an exception for microbusinesses." The commenter makes note that their entity is a "microbusiness already limited to 10 employees."

The commenter states their entity intends to employ interns from a local college “to play a critical role in more than just cannabis sales, developing them so that they can assist us with marketing, data analysis, compliance, business development, community outreach, financial management, and much more.” Thus, the commenter recommends an exception for microbusiness “that could include restrictions,” such as “no more than two interns per calendar year, prohibiting interns from returning for a subsequent semester, and/or requiring interns to obtain the requisite cannabis identification from the Commission or alternatively prohibiting interns from accessing the secure areas of the facility.” (217)

RESPONSE: The Commission’s regulation is consistent with statutory restrictions on microbusinesses. Including interns in the definition of “employee” helps ensure that all those working in a cannabis business receive adequate employment law protections.

69. COMMENT: One commenter states, “There is no definition of marijuana yet ‘marijuana’ was mentioned in the ballot initiative.” (60).

RESPONSE: Although the Commission’s personal use rules do not include a definition of marijuana, N.J.A.C. 17:30A-1.2 defines “marijuana” by stating that it “has the meaning given at section 2 of the New Jersey Controlled Dangerous Substances Act, P.L. 1970, c. 226 (N.J.S.A. 24:21-2).” “Cannabis” is the regulated form of “marijuana,” cultivated, manufactured, and sold in the New Jersey regulated personal use cannabis market, in accordance with the Act and this chapter.

70. COMMENT: One commenter recommends removing the definition for “organic.” The commenter states that since organic is a Federal definition and the applicable regulation was incorporated into the New Jersey standard, then the U.S. Department of Agriculture (USDA) restrictions apply. As cannabis is still Federally scheduled as a Schedule I substance, no Federal rules, including the use of “organic” are permitted at the present time. Thus, the commenter recommends removing any reference to “organic” as it appears in this rulemaking. (35)

RESPONSE: The Commission’s definition for “organic” is forward-looking, but the Commission acknowledges that the USDA’s policy may prevent all cannabis products from being labeled “organic” as it stands today.

71. COMMENT: One commenter stated that the definition of “premises” should be amended. The commenter stated that “any Microbusiness Class 2 Processor would need a separate ingress/egress from the ‘physical plant’ for transportation of ingredients, product, packaging ...” which “must be totally separate from any area where actual production takes place.” The commenter suggested adding the language “[a]ny area for ingress/egress of ingredients, packaging, products is also included in premises.” The commenter also suggested removing “cannabis manufacturer” under bullet #4 of the definition of “premises” at N.J.A.C. 17:30-1.2. (61)

RESPONSE: The Commission’s proposed definition of “premises” already includes any area for ingress/egress at subparagraph 1, “all public and private enclosed areas at the location that are used in the business operated at the location.” A cannabis manufacturer may not operate a purely administrative office that is not a “cannabis business premises” because inherently, a cannabis manufacturer is possessing and manufacturing cannabis items at that location, and, thus, that location is included in “premises.” A purely administrative office refers only to an administrative office in which the cannabis business is not possessing or handling cannabis items.

72. COMMENT: One commenter states that on page 50 [Definition of “premises”], Cannabis administrative offices without cannabis on site “should not be removed from definition of cannabis business premises.” The commenter explains that if an entity is in the business of facilitating any aspect of marijuana operations then it is a cannabis business, and its premises are such. The commenter states that the “CRC cannot attempt to identify an additional type/Class of business in this process of amending rules.” (214).

RESPONSE: The identification of purely administrative offices did not create an additional type/class of cannabis business. It merely noted that a cannabis distributor or cannabis delivery service facility that is never used for the possession or handling of cannabis or cannabis items does not need the same level of regulation as a facility that has cannabis present. Pure facilitation of an operation at an office containing computers, desks, file cabinets, and phones is very different than cannabis cultivation,

manufacturing, retail, and wholesaling, and the facility required for such activities.

73. COMMENT: One commenter stated that the “usable cannabis” definition should be amended. The commenter argued that the CRC should allow the manufacturing of ingestibles and stated that “there should be a clearer sub-definition of what cannabis is used for manufacturing in the manufacturing of ingestibles.” The commenter suggested adding the following language to the definition: “usable cannabis for manufacturing is defined as: cannabis extracted which may be mixed with excipient or oil to aid in the manufacturing of ingestible products. The actual amount of usable cannabis will be calculated by the material weight times the determined activity level. Any excipient, carrier, or other non-cannabis material shall not count as usable cannabis for manufacture or for other calculations of any fees.” (61)

RESPONSE: The proposed rules contain clear definitions for “cannabis concentrate,” “cannabis product,” “cannabis-infused product,” “ingestible product,” and “usable cannabis” that outline their differences. “Usable cannabis” means only the dried form of cannabis, no matter the purpose for which it is used. The product manufactured from usable cannabis after extraction is called “cannabis concentrate” and when additional ingredients are added to that product it is called a “cannabis-infused product,” which includes an “ingestible product.”

74. COMMENT: One commenter states that the definitions for electronic smoking device vs. vaporized formulation “are two clearly related definitions that are also explicitly at odds with one another.” As the definition for “vaporized formulation” makes clear, it is the “oil and one or more inactive ingredients in an electronic smoking device that is meant to be heated, aerosolized, and inhaled. My question for the CRC is, are you calling these devices vaporizers and implying they vaporize or are you calling them smoking devices and implying they produce smoke? Right now, your definitions muddy the water and seem to be implying that they both smoke and vaporize.” The commenter proposes adopting the language used by other states calling them “Vaporizer(d) Delivery Devices.” For example, Colorado defines a “Vaporizer Delivery Device” as “inhalable Regulated Marijuana Concentrate, which may be comprised of other Ingredients inside a device that uses a heating element to create a vapor including, but not limited to, vaporizer cartridges and vaporizer pens.” New York’s hemp regulations talk about “Electronic Vaporization Devices,” which would be a very small change to your definitions, just swapping out “smoking” for “vaporization.” (234)

RESPONSE: “Electronic smoking device” is a term used in other New Jersey statutes and rules to refer to the same types of devices used to aerosolize cannabis items. “Vaporizing” a substance converts the substance from a liquid to a gas. “Aerosolizing” a substance creates a suspension of tiny particles of a solid, a liquid, or both, within a gas, such as air. It is unlikely that any electronic smoking device will actually “vaporize” the vaporized formulation. Most, if not all, electronic smoking devices instead “aerosolize” the oil and inactive ingredients.

75. COMMENT: One commenter stated that the definition of “vendor-contractor” remains vague and should explicitly list examples that are not included in this definition. (197)

RESPONSE: The “vendor-contractor” definition includes clear criteria regarding remuneration as opposed to ownership interest. Thus, no changes will be made upon adoption.

Subchapter 2

76. COMMENT: One commenter applauds the CRC for adding the protections at N.J.A.C. 17:30-2.3(a), headed “License Holder Civil Protections.” (217)

RESPONSE: The Commission acknowledges the commenter’s support for the regulation.

Subchapter 3—Organization and Operation of the Commission

77. COMMENT: One commenter stated that the social equity excise fee regulation at N.J.A.C. 17:30-3.4 “as written, appears to have a loophole and not apply to those Cultivators who have both” a Class 1 and Class 2 Manufacturer’s license. The commenter argues this puts “stand alone Class 2 manufacturers at a disadvantage.” The commenter suggests adding the following **bold** language at N.J.A.C. 17:30-3.4: “In accordance with N.J.S.A. 54:47F-1, the Commission shall impose a Social Equity

Excise Fee on the sale or transfer of usable cannabis or unusable cannabis by a cannabis cultivator to any other cannabis establishment **or for their own use in manufacturing products.**" (61)

RESPONSE: The Commission is modifying N.J.A.C. 17:30-3.4(a) upon adoption in response to the comment and to clarify that "any other cannabis establishment" means a cannabis manufacturer, cannabis wholesaler, or a cannabis retailer owned by the same license holder as the cannabis cultivator.

78. COMMENT: One commenter states that at N.J.A.C. 17:30-3.4, it is unclear what the CRC's allowance of unusable cannabis is based on the definition of "unusable cannabis" at N.J.A.C. 17:30-1.2, as any parts of immature cannabis plant when compared to Oxford dictionary's citation of unusable as "not fit to be used." However, at N.J.A.C. 17:30-3.4(a)1ii and elsewhere, "unusable" appears—for example, as "\$3.00 per ounce of unusable cannabis sold for the purpose of manufacturing." (214)

RESPONSE: To provide clarification, N.J.A.C. 17:30-3.4 refers to the definition of "unusable cannabis" at N.J.A.C. 17:30-1.2.

Subchapter 5—Municipal Authority

79. COMMENT: One commenter respectfully requests that the Commission clarify the impact of N.J.A.C. 17:30-5.1(i), titled "solicitation of value as part of community host agreement on those applicants and municipalities whose host community agreements already include a provision of funds from the applicant to a host municipality's agency." (217)

RESPONSE: The Commission's specially adopted rules promulgated on August 19, 2021, at 53 N.J.R. 1583(a), at N.J.A.C. 17:30-5.1(i), prohibits a municipal government official from soliciting "anything of value" in exchange for zoning approval, proof of local support, or written approval for a cannabis business. This rulemaking, at N.J.A.C. 17:30-5.1, provides more clarity and examples of this prohibition. The Commission cannot provide legal advice on whether a particular host community agreement violates State law.

80. COMMENT: One commenter states "If there is anything that can be done about the municipalities that have local applications that are not transparent or fair, please enact regulations curtailing this behavior." (45)

RESPONSE: The rulemaking prohibits a municipal government official from soliciting or receiving "anything of value" in exchange for zoning approval, proof of local support, or written approval for a cannabis business or any other violation of N.J.S.A. 40A:9-22.5 of the Local Government Ethics Law. Municipalities must follow the rules at Subchapter 5. The Commission cannot provide legal advice on whether a particular host community agreement violates State law.

81. COMMENT: One commenter states that on pages 78 and 79 of the Commission's notice of proposal [N.J.A.C. 17:30-5.1(i)], "host community agreements should not be allowed." The language reading "A county, municipality, or county or [municipality] municipal government official shall [not] neither solicit nor receive from a cannabis business, and a cannabis business shall not offer, anything of value." However, the commenter states that "any compensation they give a town is of value." The commenter believes it is a violation of ethics for a town to require from and accept from a Federally illegal business what is essentially a bribe. (214)

RESPONSE: N.J.A.C. 17:30-5.1(i) prohibits any county, municipality, or county or municipal government official from receiving any compensation, as compensation is a "thing of value." The concept of a host community agreement is not prohibited, but such agreement cannot demand that a cannabis business give the locality or official or any other designated person or entity any type of compensation, donation, contribution, or other thing of value.

82. COMMENT: One commenter states that, in regards to N.J.A.C. 17:30-5.1, the Commission should add the following language: "1,500 feet (measured from property line to property line) from the closest church, synagogue, temple, or other place used exclusively for religious worship; or from the closest school, playground, park, or child daycare facility; community recreation center; substance addiction or rehabilitation center; or nearest residential dwelling." (340)

RESPONSE: N.J.A.C. 17:30-5.1(a)2 reiterates the power of the municipality to enact an ordinance or regulation that requires a cannabis business to be a certain distance from the closest church, synagogue,

temple, or other place used exclusively for religious worship; or from the closest school, playground, park, or child daycare facility. Thus, no changes will be made upon adoption.

Subchapter 6—Cannabis Business Licensing General Terms

83. COMMENT: One commenter stated that in "reference to proposed regulation, N.J.A.C. 17:30-6.1(b)3, Cannabis business licensing process; application priority review and approval, the CRC must set limits for each license type, which the CRC has the authority to amend if demand calls for it." The commenter suggests a schedule that caps licenses at certain dates and requires the Commission to issue licenses only to meet the market demands. (83)

RESPONSE: The CREAMM Act does not require the Commission to set limits for any class of license, except for the temporary limit on cannabis cultivators and vertical integration pursuant to N.J.S.A. 24:6I-46. Additionally, the CREAMM Act, at N.J.S.A. 24:6I-45, allows each municipality to enact ordinances governing the number of cannabis establishments. Thus, the Commission has determined that license limits shall be governed by each municipality.

84. COMMENT: One commenter states that N.J.A.C. 17:30-6 authorizes the CRC to accept new license applications and issue additional licenses, as it deems necessary, to meet the market demands of the State. The commenter urges the CRC "to immediately open the application portal to Class 3 and Class 4 license types and to begin accepting applications for same." The commenter understands "the demands placed on the CRC by the volume of Classes 1, 2, and 5 license applications that have been submitted and are under review by the CRC." Yet, the commenter states "it is critical to the eventual success of Class 3 and Class 4 license holders and to the promise of a diverse and equitable industry that the logistics license applications be accepted and reviewed as soon as possible so that these services are available to new market entrants in a timely fashion." The commenter elaborates that the "immediate opening of the application process to Class 3 and Class 4 applicants is not only critical to the success of those prospective license holders, but the success of standalone Class 1 and Class 2 license holders is also dependent on these logistics licenses being issued and operationalized." The commenter states that "because many of the standalone license holders, particularly microbusinesses, can bear neither the financial costs nor the operational burdens of distribution, it is critical that the CRC expedite the release of the logistics licenses so that standalone cultivators and manufacturers can compete with vertically integrated cannabis companies." (48)

RESPONSE: After re-adoption of the amendments, the Commission will issue an updated notice of application acceptance for the additional license types and subsequently open the application portal.

85. COMMENT: One commenter states that conditional license applicants should not have priority over annual license applicants (N.J.A.C. 17:30-6.1(d)). (214)

RESPONSE: The CREAMM Act, at N.J.S.A. 24:6I-36.b(2)(a), requires a set-aside for conditional license applicants over annual license applicants. Further, conditional licenses are more accessible for a larger pool of applicants because they do not require site control, include a less detailed application, and have some income limitations. The CRC seeks to empower that larger pool of applicants and encourage applications from a diverse pool of New Jerseyans.

86. COMMENT: One commenter states that New Jersey farmers should be prioritized in the ability to grow cannabis because it is very profitable. (282)

RESPONSE: The Commission welcomes all who have expertise in cultivation to join the cannabis industry. However, pursuant to the CREAMM Act, at N.J.S.A. 24:6I-49.b(1), in no case shall a cannabis cultivator operate or be located on land that is valued, assessed, or taxed as an agricultural or horticultural use pursuant to the Farmland Assessment Act of 1964, P.L. 1964, c. 48 (N.J.S.A. 54:4-23.1 et seq.).

Diversely Owned Businesses

87. COMMENT: One commenter notes that "pursuant to Executive Order No. 295, Governor Philip D. Murphy wanted to recognize entities owned by members of the underrepresented LGBTQ+ community. The Governor emphasized that although the Department of the Treasury provides the opportunity for minority-owned, women-owned, veteran-

owned and disabled veteran-owned businesses to receive certifications, there's currently no certificate for LGBTQ+-owned businesses in the State of New Jersey. Pursuant to Executive Order No. 295, Governor Murphy ordered and directed the Department of the Treasury to create a program to certify LGBTQ+-owned business enterprises. In accordance with Executive Order No. 295, LGBTQ+-owned business enterprises should not be excluded from the diversely owned business designation within the regulations." The commenter recommends that the CRC "consider recognizing this underrepresented community by amending the proposed regulations (including but not limited to N.J.A.C. 17:30-6.4) to include the LGBTQ+-owned certification within the definition of a 'diversely owned business' in accordance with Executive Order No. 295." (277).

RESPONSE: N.J.S.A. 24:61-25 created a dedicated office that creates measures designed to promote the formulation of medical cannabis and cannabis businesses and participation in the medical cannabis and personal use cannabis industries by persons from socially and economically disadvantaged communities, including by promoting applications for, and the issuance of permits and licenses to certified minority, women's, and disabled veterans' businesses. While the Commission recognizes the importance of ensuring diversity in business ownership, the statute does not empower it to make the requested change.

88. COMMENT: One commenter states, "Please provide programs that will help minority groups afford application process and business set up in communities affected by the wealth gap. A proposal can possibly be made that gives first preference to minority groups without making the process harder for them since there communities were affected most by previous laws against cannabis." (244)

RESPONSE: This rulemaking includes several measures designed to assist socially and economically disadvantaged communities, including minority groups, and the licensing process includes requirements for applicants to prove their qualification for such assistance. (N.J.A.C. 17:30-1.2, 3.5, 6.1, 6.4, 6.5, 6.6, and 9.4(e)). Additionally, New Jersey's Business Action Center is currently helping potential business owners and applicants with business documentation, formation, and business plan needs. Moreover, New Jersey's regional, local, and cultural chambers of commerce and national and New Jersey-based cannabis non-profits have also been integral in assisting applicants and business owners submit successful applications. Finally, the Commission has been working with the New Jersey Economic Development Authority since the Spring of 2021 on a Cannabis Equity Grant Pilot Program, which will provide assistance, with an anticipated launch of 2023.

89. COMMENT: One commenter states giving priority designation to diversely owned business must be eliminated to "provide for fairness." (278)

RESPONSE: One of the Commission's missions that it seeks to implement in its rules is to attempt to repair the harm inflicted on individuals and communities by the criminalization of marijuana, and to encourage equity in the New Jersey cannabis industry. Prioritization of social equity businesses, impact zone businesses, and diversely owned businesses is part of that mission. Further, N.J.S.A. 24:61-25.b(1) mandates that the Commission promote participation in the personal use cannabis industry "by persons from socially and economically disadvantaged communities," including by issuing cannabis business licenses to "prospective and existing ownership of minority businesses and women's businesses, and disabled veterans' businesses." An industry with "equity" is the mark of "fairness."

Impact Zone Businesses

90. COMMENT: One commenter states that N.J.A.C. 17:30-6.5(a)3i and ii defines an impact zone business as a business where 25 percent of its employees reside in any of the State's impact zones and among those employees who reside in impact zones, 25 percent reside in the impact zone nearest the cannabis business's location. The commenter asks the CRC to consider revising N.J.A.C. 17:30-6.5(a)3ii, so that among those employees who reside in impact zones, 25 percent reside within the impact zones nearest the cannabis business or impact zones within a certain mile radius of the cannabis business. This would permit larger operators to have a larger hiring pool from impact zones, spreads out the intended benefit to more impact zones within a certain radius of the

cannabis business, and prevents operators operating within the same municipality from having a significantly limited pool of impact zone employees to choose from. (277)

RESPONSE: The Commission is modifying N.J.A.C. 17:30-6.5(a)3 upon adoption in response to the comment to add a 25-mile radius of the cannabis business's location to give impact zone businesses a benefit by giving them a larger hiring pool.

Social Equity Businesses

91. COMMENT: One commenter has concerns about the change of "the rules require license-holders to try to hire individuals living in Economically Disadvantaged areas or with past marijuana convictions." The commenter states it "sends out a wrong message that we are encouraging marijuana convictions. If people with past marijuana convictions could have an advantage in getting hired, it is unfair to others who follow the rules and didn't break the law." The commenter requests that the CRC remove the requirement. (148)

RESPONSE: One of the Commission's missions that it seeks to implement in its rules is to attempt to repair the harms inflicted on individuals and communities by the criminalization of marijuana. Now that the Legislature has legalized cannabis, it is integral to prioritize the inclusion in the cannabis industry of those whose previously criminal actions are now allowed in the new closed cannabis sales and production system, to offer them a new opportunity to succeed. The CREAMM Act also gives the Commission the authority to prioritize certain applications at N.J.S.A. 24:61-36.

92. COMMENT: Several commenters state, "The notion of requiring prior criminals to be employed at cannabis businesses should have more limitations and provisions. The requirement to employ former criminals is likely to result in more rules and cannabis laws being broken and puts undue pressure on licensees. The state should require that some crimes should prohibit a business from allowing an employee with prior convictions. If a cannabis dispensary employee has a history of selling illegal drugs to minors, they should not be allowed to be a dispensary employee. The black market has grown rapidly in newly legal states and there are insufficient provisions to monitor and prevent the growth of the black market in this set of rules." (51, 62, 155, 335, and 336)

RESPONSE: One of the Commission's goals that it seeks to implement in its rules is to attempt to repair the harms inflicted on individuals and communities by the criminalization of marijuana. Now that the Legislature has legalized adult personal use cannabis, it is integral to prioritize the inclusion in the cannabis industry of those whose previously criminal actions are now allowed in the new closed cannabis sales and production system, to offer them a new opportunity to succeed. However, although certain crimes involving marijuana have been expunged by the Legislature, the CREAMM Act (N.J.S.A. 24:61-37 through 43) lists certain convictions that remain disqualifying offenses to work in the cannabis industry, which has been promulgated by the Commission at N.J.A.C. 17:30-7.12.

93. COMMENT: One commenter requests that the CRC solicit feedback from various public sectors—doctors, teachers, and parents, because the THC content "are not regulated yet and more and more research have discovered its addictive and harmful natures to children and young adults." Additionally, the commenter states that "giving licensing priority to people with prior criminal records is very concerning, there are no evidence that they will more qualify to handle marijuana safely and legally than everyone else." Finally, the commenter states that "branding marijuana industry to the advocate of social justice is a lunatic and dangerous attempt." (108)

RESPONSE: The public comment process, the public meeting process, and other engagement with stakeholders provides the opportunity for public engagement. One of the Commission's missions that it seeks to implement in its rules is to attempt to repair the harm inflicted on individuals and communities by the past criminalization of marijuana. Now that the Legislature has legalized cannabis, it is integral to prioritize the inclusion in the cannabis industry of those whose previously criminal actions are now allowed in the new closed cannabis sales and production system, to offer them a new opportunity to succeed.

94. COMMENT: One commenter offers the following statements and 807 commenters support the following comments: 1) Dedicate significant

funding to social equity and diversely owned applicants in the form of grants or no-interest/low-interest loans, following the example of New York's newly created \$200 million equity fund. Lack of access to capital, which remains a key barrier to entry for many individuals aiming to start and grow a cannabis business; 2) Create technical assistance programs, fee waivers, and other resources to help social equity and diversely owned applicants navigate the application process; 3) Establish employment and mentorship programs directed toward social equity and impact zone applicants and diversely owned businesses; 4) Ensure systems tracking the purchase of retail cannabis have stringent data privacy protections to prevent adverse immigration consequences for noncitizens; 5) Provide guidelines to encourage municipalities to set policies that prioritize equity in the local industry, including removing licensing caps, reducing municipal fees, and creating municipal equity programs; 6) Allocate funding and support for the Office of Minority, Disabled Veterans, and Women Cannabis Business Development to surpass the goal in the legislation of 15 percent ownership by minority business owners and 15 percent ownership by disabled veterans and women; 7) Proactively conduct inclusive public education and outreach and solicit input from communities harmed most by cannabis prohibition when adopting regulations and developing advisory recommendations to the New Jersey Legislature on the use of revenue collected from the Social Equity Excise Fee; 8) Create a Social Equity Excise Fee Advisory Board; and 9) Share data on marijuana-related policing on a quarterly basis. (11 and 346 through 1,152).

RESPONSE: The Commission is conducting research and considering helpful measures in continuing to fulfill its commitment to its prime mission of ensuring equity in the State's cannabis program, and welcomes continued public engagement and dialogue on these ideas. It should be noted that the Commission has already undertaken the following measures below to address some of the commenters' concerns.

First, the Commission has researched and has had significant numbers of talks with cannabis regulators in other jurisdictions and stakeholders on effective accessibility programs. The Commission has worked with the New Jersey Economic Development Authority (NJEDA) since the Spring of 2021 on a Cannabis Equity Grant Pilot Program with an anticipated launch of 2023. New Jersey will be the only state offering grants and other financial assistance tools of the projected amounts to cannabis businesses this soon after starting adult-use cannabis sales. The Commission welcomes the full participation of eligible applicants in the NJEDA program so the data and demand can continue to reflect the need amongst license awardees and potential cannabis business owners. Individuals should visit <https://www.njeda.com/njeda-announces-launch-of-new-cannabis-grant-program/> to learn more about the NJEDA program.

Next, the Commission's website contains explainer videos, regularly updated Frequently Asked Questions (FAQs), and downloadable resources that can be utilized now during the application process, with much more to come. The Commission recommended that funds from the Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Fund be allocated to establish the Cannabis Training Academy, run by the New Jersey Business Action Center (BAC), which is currently helping potential business owners and applicants with business documentation, formation, and business plan needs. BAC's proposed curriculum includes modules designed to help participants decide if a cannabis business is right for them and will include business plan development, as well as a Legacy to Legal course. Additionally, New Jersey's regional, local, and cultural chambers of commerce and national and New Jersey-based cannabis non-profits have also been integral in assisting applicants and business owners submit successful applications.

Further, the New Jersey Department of Labor and Workforce Development (DOLWD) recently announced a pilot apprenticeship program dedicated to training workers in the cannabis industry. The Commission applauds DOLWD's efforts and hopes that this program provides meaningful support for those wanting to enter the industry. Currently, nearly 15 community colleges and universities are offering cannabis training certificate programs and/or undergraduate programs for New Jerseyans wishing to enter the cannabis workforce. The public can find an updated list of those colleges on the Commission's website. The Commission continues to have ongoing conversations with colleges about the significant opportunity to grow New Jersey's cannabis workforce and

future cannabis leaders through our higher education institutions. See https://www.nj.gov/labor/lwdhome/press/2022/20221220_apprenticeship.shtml.

Regarding data privacy protections, a cannabis retailer is required to comply with N.J.A.C. 17:30-14.3(b), which states, "In order to ensure that individual privacy is protected: 1. A consumer is not required to provide a cannabis retailer with personal information other than government-issued identification as set forth at (a) above in order to determine the consumer's identity and age; 2. A cannabis retailer shall not collect and retain any personal information about a consumer other than information typically acquired in a financial transaction conducted by the holder of a Class C retail license concerning alcoholic beverages as set forth at N.J.S.A. 33:1-12; and 3. The cannabis retailer shall not keep a copy of the consumer's photographic identification." A cannabis retailer may be held liable for sanctions, pursuant to N.J.A.C. 17:30-20.5 if it violates any of the Commission's regulations, including a violation of individual privacy.

Additionally, the Commission continues to educate municipalities about the benefits of a robust, equitable, and diverse cannabis market at the local level. The Commission's Director of Government Affairs has acted as a ready resource and direct line for municipalities, answering and assisting municipalities across the State. In addition to that education, the Commission has helped facilitate conversations among municipalities so they can learn from one another as well. There are several downloadable resources specific to municipalities on the Commission's website. The Commission continues to signal to municipalities to use the Commission as a resource to help navigate local issues. The Commission issued guidance for municipalities regarding the licensing process. See <https://www.nj.gov/cannabis/documents/businesses/personal-use/Municipal%20Preference%20Guidance%20.pdf>.

Moreover, the Commission and the Office of Diversity and Inclusion (ODI) has seen promising numbers in the percentage of applications and awardees for minority-owned businesses and women-owned and disabled veterans-owned businesses. The Commission is not only meeting, but surpassing, its statutory benchmarks when it comes to a diverse cannabis market. The Commission issues quarterly reports on license issuance and social equity (link to data on licensees). As of the last reported data (updated on December 17, 2022), 48 percent of conditional license awardees are minority-owned, and 50 percent of new annual license awardees are minority-owned. A quarter of the CRC's annual license awardees are social equity qualified due to a past conviction. Looking at the statutory benchmarks specifically, the CRC is outperforming them by over 20 percent. It was always the goal of the Commission to see our diversity benchmarks as the floor and not the ceiling.

The Office of Diversity and Inclusion is funded as a part of the overall CRC operating budget. ODI has already completed a significant number of public education and outreach events while soliciting input from communities most harmed by cannabis prohibition. The Commission is seeking more opportunities to educate communities on the impact of this new industry and opportunities to provide valuable feedback to the Commission. The Commission seeks collaboration and partnership with the public and leaders of all communities to continue to educate New Jerseyans at levels they deem most appropriate for their communities.

Between November 2022 and January 2023, the Commission's Public Engagement and Education Committee held five regional virtual public hearings to solicit input from New Jersey residents on how funds from cannabis tax revenue should be allocated by the Legislature according to the CREAMM Act. Utilizing public input, the Commission is preparing a Social Equity Excise Fee recommendation report, which details the Commission's recommendations in the distribution of revenues from the Social Equity Excise Fee.

95. COMMENT: One commenter states that one of the best additions to the proposed regulations is requiring cannabis businesses to submit monthly progress reports that include specifics on the good faith efforts being made to ensure the cannabis business's social equity plan, as presented in its application or certification to the CRC is being achieved. The commenter suggests that the Commission add a time period as to whether this occurs in perpetuity or until certain criteria is met. The commenter further suggests "It may also make sense from a resource perspective to have this be a quarterly requirement, apart from Alternative Treatment Centers." (45)

RESPONSE: The Commission's regulations will be enforced to ensure such good faith efforts will be made. If there are issues with compliance, a time period may be added in a future rules package. However, the commenter's suggested change will not be made upon adoption.

96. COMMENT: One commenter states that the definition of "social equity" applicant is shortsighted in its requirement for convictions of cannabis offenses, and ignores the large population of people who entered into pretrial diversion. The commenter notes that "individuals who complete PTI are not convicted but carry the stigma of the cannabis arrest." The commenter "states that by requiring a conviction and excluding those who earned a dismissal through a diversion program, the CRC is unfairly limiting the benefits of being a social equity applicant to a huge population of individuals whose lives have been impacted by the criminalization of cannabis." (63)

RESPONSE: The Commission has considered expansion of the "social equity business" category and will continue to gather data on the issue and consider such expansion. The current definition has, thus far, yielded good representation in application submissions from the targeted population.

Microbusinesses

97. COMMENT: One commenter states that on page 6 of the Commission's notice of proposal (N.J.A.C. 17:30-6.1(c)), the amendment states "converted microbusiness do not count towards license limits." The commenter states that any microbusiness conversion "should count towards license limits." (214)

RESPONSE: The CREAMM Act, at N.J.S.A. 24:61-35.a(1) states that the 24-month period cannabis cultivator license limit "shall not apply to cannabis cultivator licenses issued to microbusinesses." Thus, no changes will be made upon adoption.

98. COMMENT: One commenter states "The CRC should coordinate with other State agencies to create a program, to be housed in the Office of Women Minority Disabled Veterans in Cannabis Business Development, that provides access to zero- or low-interest loans and/or simple grant opportunities to allow those who are usually excluded from market participation to have a financial means of getting in. (N.J.S.A. 24:61-25) This should be made available to all Microbusinesses, regardless of their classification as social equality, diversity, or any other classification. Also, this should be available in each category: cultivation, processing, and retailing." (61)

RESPONSE: The commenter's request is outside the scope of this rulemaking. Nevertheless, it should be noted that the CREAMM Act gives the Commission the authority to collect a Social Equity Excise Fee, at N.J.S.A. 54:47F-1, that will raise funds that can be appropriated for initiatives, such as educational support, economic development, and social support services for those persons and communities harmed by the criminalization of cannabis. See more information on the Commission's social equity initiatives on its website at www.nj.gov/cannabis/. Additionally, the Commission is conducting research and considering helpful measures in continuing to fulfill its commitment to its prime mission of ensuring equity in our cannabis program, and welcomes continued public engagement and dialogue on these ideas.

99. COMMENT: One commenter states that the definition of microbusiness at N.J.A.C. 17:30-6.7 should be clarified to allow the microbusiness "more flexibility to interchange employees due to extenuating circumstances like COVID restrictions." The commenter suggests adding the following **bold** language at N.J.A.C. 17:30-6.7(c)3iii, "The microbusiness license applicant or license holder shall employ no more than 10 employees at one time, **during the same 8 hour shift**, regardless of the number of hours worked by the employees; **Per the New Jersey Employer Certification, Full-Time Employee is defined as an employee who works a normal work week of 30 or more hours.**" (61)

RESPONSE: The CREAMM Act, at N.J.S.A. 24:61-36.f(2)(c)(i), strictly limits microbusiness to 10 employees. Any cannabis business that exceeds the 10-employee limitation should apply as a standard cannabis business. Thus, the commenter's suggested revision will not be made upon adoption.

2,500 Square-Foot Limitation for Microbusinesses, Including Cultivators

100. COMMENT: One commenter states that the CRC should clarify how to calculate square footage of proposed cannabis establishments; and

should clarify the definition of the term "occupying," as that term is used both in the statutory definition of "microbusiness" and in the statutory requirements to apply for a microbusiness license. The CRC should utilize a liberal approach to calculating the 2,500-square-foot limit applied to cannabis establishments seeking a microbusiness license, which would require applicants to include in their calculations only that square footage actually used for the day-to-day cannabis operation of their respective cannabis establishments. (61)

101. COMMENT: One commenter states that when the amended rules were "proposed in the meeting, the commission stated that they would be clarifying that breakrooms and bathrooms do not count toward the 2,500 square foot limit imposed on microbusinesses." In the proposed amended rules, the commenter does "not see this wording, rather wording that clarifies what the definition of physical plant and premises are." The commenter requests clarification whether this will "grant the microbusiness the proper space they need while still operating under a small footprint." (252)

RESPONSE TO COMMENTS 100 AND 101: The term "physical plant," at N.J.A.C. 17:30-6.7(c)4 clarifies the area that counts towards the 2,500 square foot microbusiness limitation. "Physical plant" means "the spaces, equipment, and infrastructure directly utilized by a cannabis business, within the premises, for cultivation, manufacturing, wholesaling, distributing, retail sale, or delivery." Breakrooms and bathrooms are not within the definition of a physical plant, and do not count towards the 2,500-square-foot limitation.

102. COMMENT: One commenter expressed concerns regarding the 2,500-square-foot limitation for cultivators at N.J.A.C. 17:30-10.1(d). The commenter states that "unless the 2,500 square foot limitation on cultivators is only applied to mature cannabis plant grow canopy area, that is, those areas comprised of harvestable female cannabis plant that is flowering, the CRC will doom micro-cultivators to being little more than home grow operations tucked into a closet or basement." The commenter provides its floor plan, which demonstrates that the flower room or mature cannabis plant grow canopy area, is a smaller segment of the overall cultivator operation, and a cultivator's floor plan contains other aspects, such as rooms for drying, trimming, packaging mechanical/electrical, irrigation, and shipping and receiving areas. The commenter requests that the Commission confirm that its amended definition of physical plant, mirrors the manner in which canopy is delineated at N.J.A.C. 17:30-10.4. The commenter states that N.J.A.C. 17:30-10.4(b) states that canopy is to be measured based on "mature cannabis plant grow canopy area," and not merely those areas directly utilized by a cannabis business for cultivation. Alternatively, the commenter requests that operators possessing both a micro cultivation and micro manufacturing permit be judged on a total 5,000 square feet footprint, irrespective of how that square footage is allocated between the two operations (with the exception for canopy). (220)

103. COMMENT: Two commenters state that the flower rooms, or "mature cannabis plant grow canopy area," are but a smaller segment of the overall cultivation operation. Similar in size include the mother/clone room and the veg room, which do not contain "mature cannabis plants," that is, harvestable female cannabis plant that is flowering, which is the typical definition applied by the CRC for canopy. Beyond that are what the commenters would refer to as more of the administrative aspects of a cultivation operation, that is, drying, trimming, and packaging rooms; mechanical/electrical, irrigation, and shipping and receiving areas, etc. However, the actual "canopy" of a cultivation operation can be a substantially smaller footprint in the grand scheme of a cultivation operation. The commenters express that this "becomes the unmistakable pain point of a micro cultivator, who under a misguided reading of the proposed regulations, would be subject to the inconsistency that whereas it may have 'a total grow canopy area that does not exceed 2,500 square feet,' it may occupy 'an area of no more than 2,500 square feet.' See N.J.A.C. 17:30-10.1(d). The commenters understand that the CRC sought to remediate this problem by identifying that "a microbusiness cannabis establishment have its entire microbusiness physical plant occupy an area of no more than 2,500 square feet." N.J.A.C. 17:30-6.7(c)4, Physical plant, in turn, was amended to mean the "spaces, equipment, and infrastructure directly utilized by a cannabis business, within the premises, for cultivation." The description related to this change voiced at the June

30, 2022 CRC meeting was that this was meant to exclude areas such as hallways, employee breakrooms, and bathrooms. The commenters request that the CRC confirm that this description of physical plant, in turn, mirrors the manner in which canopy is clearly delineated at N.J.A.C. 17:30-10.4. For instance, the commenters state that N.J.A.C. 17:30-10.4(b) discusses that canopy is to be measured based on “mature cannabis plant grow canopy area,” and not merely those areas directly utilized by a cannabis business for cultivation. This same provision goes on to state that “[a] mature cannabis plant grow canopy area is the total square feet in which a cannabis cultivator plants and grows cannabis plants, and does not include areas exclusively used for harvesting, drying, curing, packaging, labeling, or storing cannabis.” (Emphasis added.) Thus, the commenters state that a Tier VI cultivator would have its canopy measured solely in relation to its mature cannabis plant grow area, that is, the flower room on the floor plan identified (in the commenter’s submission), which would expressly exclude all of the other rooms noted and discussed. As such, the commenters write to confirm that where such an expansive definition of canopy is afforded for Tier I-VI operators, that same expansive definition be afforded to micro cultivators—as the rules appear to envision. The commenters state that the new rules include the distinction previously discussed on “physical plant,” and things, such as hallways, breakrooms, and bathrooms do not count towards the 2,500-square-foot limitation. That being said, the commenters state that the distinction is on those areas directly used for cultivation, etc. This should not just be bathrooms, breakrooms, etc., that are carved out from the 2,500-square-foot limitation, but that the micro status should only count towards “canopy.” The commenters request “2,500-square-foot limitation of grow space.” (140 and 150)

RESPONSE TO COMMENTS 102 AND 103: The Commission is modifying N.J.A.C. 17:30-6.7(c)5i, 10.1(d), and 10.4(c)1iv in response to the comments. The Commission has interpreted N.J.S.A. 24:6I-36f(2)(a)(ii) to mean that it has the authority to define a microbusiness cannabis cultivator’s grow area. Thus, the Commission is modifying the rules to change “cannabis grow canopy” to “mature cannabis plant grow canopy” area.

104. COMMENT: One commenter states that N.J.A.C. 17:30-6.7(c)4 and 10.4(c)1iii should not apply to cannabis cultivator microbusinesses, because they conflict with N.J.A.C. 17:30-10.1(d) in such a way that they do not realistically permit a cannabis cultivator to actually achieve a total cannabis grow canopy area of 2,500 square feet (SF) if the maximum size of the physical plant is limited to 2,500 SF. The commenter states that “In order to achieve a total cannabis grow canopy area of 2,500 SF, which is only 25% of that allowed by the lowest Tier 1 cannabis cultivator (whom do not have physical plant restrictions), the physical plant square footage would need to be likely double what is currently permitted in order to facilitate the proper space needed for all other aspects related to cannabis cultivation and the proper storage of cannabis products and processing equipment.” The commenter states that the restriction regarding size for cannabis cultivator microbusinesses should be limited to cannabis grow canopy areas, not physical plant area restrictions. Moreover, the commenter states that with the very limited real estate available to cannabis cultivators, which is usually confined to exclusively industrial zoning districts within permissible municipalities, it is almost impossible to acquire commercial space at or around the very limited maximum of 2,500 SF. The commenter states that prospective cultivators were forced to lease space several times more than can actually be utilized (over 8,000 SF in my case), and this puts a financial strain on new businesses when they are only able to utilize a very small percentage of that which they are leasing. Furthermore, the commenter believes that it is not logical that all cannabis microbusinesses should be afforded the same space restrictions of 2,500 SF for their physical plants. If a cannabis retail microbusiness is afforded 2,500 SF for their physical plant, then cannabis cultivator microbusinesses should be permitted at least twice that. The commenter states that a cannabis retail microbusiness could easily achieve its maximum cannabis dispensing limit of 1,000 pounds per month within its allotted physical plant; however, in order for a cannabis cultivator microbusiness to cultivate that same 1,000 pounds of usable cannabis, it would need a space at least 10 times larger when factoring in all of the floor space needed for cultivation and processing equipment. (127)

RESPONSE: N.J.S.A. 24:6I-33 prescribes that a microbusiness, “with respect to its business operations, and capacity” may only “operate a cannabis establishment occupying an area of no more than 2,500 square feet.” Thus, N.J.A.C. 17:30-6.7(c)4 and 10.4(c)1iii must limit a microbusiness cultivator to 2,500 square feet of physical plant. However, as discussed in the Response to Comments 102 and 103, the Commission is modifying N.J.A.C. 17:30-6.7(c)5i, 10.1(d), and 10.4(c)1iv.

105. COMMENT: One commenter states that the regulation dictating that “a micro business cannabis establishment shall have its entire micro-business physical plant occupy an area of no more than 2,500 Sq. Ft.,” needs to be more specific. The commenter asks, “will the square footage be measured from the exterior walls of the rooms, or from the interior walls of the rooms?” The commenter further asks, “Is the 2,500 Sq. Ft our allotted canopy space or is that space including the water room, storage rooms, hallways, and delivery spaces?” (167)

RESPONSE: The 2,500 square feet of physical plant will be measured in the interior of the facility, from the corners of the walls. The physical plant, which is limited to 2,500 square feet, means “the spaces, equipment, and infrastructure directly utilized by a cannabis business, within the premises, for cultivation, manufacturing, wholesaling, distributing, retail sale, or delivery.” If a space is used for those activities, it is part of the “physical plant.” Bathrooms and breakrooms are excluded from physical plant. Additionally, the Commission is modifying N.J.A.C. 17:30-6.7(c)5i, 10.1(d), and 10.4(c)1iv, as discussed in the Response to Comments 102 and 103.

Limitations on License Holders

106. COMMENT: One commenter proposes that a cannabis establishment that chooses to only operate in the retail space be permitted to apply for and obtain up to three different retail licenses/locations, allowing the entity to become fully horizontal (as opposed to vertical). The commenter reasons that “virtually all of the operational ATCs either have or are provisionally approved to open up to three retail licenses.” The commenter states that of “the existing cohort of Expanded ATCs—Acreage, Ascend, Ayr, Columbia Care, Curaleaf, GTI, Terrascend, and Verano—all have three retail facilities.” The commenter states that “to prohibit medical dispensaries (including as Expanded ATCs holding Class 5 Licenses) from establishing a multi-location brand is to place New Jersey-based companies at a competitive disadvantage.” The commenter proposes amending N.J.A.C. 17:30-6.8(e) to allow license holder to “hold up to three cannabis retailer licenses, provided they hold no other interest in any other license.” Alternatively, the commenter proposes amending N.J.A.C. 17:30-6.8(e) to allow license holders to conduct “retail sales from up to three approved retail locations under one such license, provided they hold no other interest in any other license.” (221)

107. COMMENT: One commenter proposes that a cannabis establishment that chooses to operate in the retail space be permitted to apply for and obtain up to three different retail licenses/locations in order to have the same advantages as the MSOs. The commenter states that the regulations currently recognize the ability for a single entity to hold up to four licenses after February 2023 (inclusive of Cultivation, Manufacturing, Retail, and Dispensing). However, the commenter states that not every operator wants to be vertical, nor has the capital necessary to become vertical. Additionally, the commenter notes that “virtually all of the operational ATCs either have or are provisionally approved to open up to three retail licenses.” The commenter proposes that N.J.A.C. 17:30-6.8(e) be amended to: A license holder and its owners and principals may hold up to three cannabis retailer licenses. (187).

RESPONSE TO COMMENTS 106 AND 107: The CREAMM Act, at N.J.S.A. 24:6I-46.b(1)(a), states, “Following the 24-month period set forth in subparagraph (a) of paragraph (1) of subsection a. of this section, a cannabis license holder shall be authorized to hold: a Class 1 Cannabis Cultivator license, a Class 2 Cannabis Manufacturer license, a Class 5 Cannabis Retailer license,” and does not provide the Commission the authority to issue three separate retail licenses to one license holder. Thus, no changes will be made upon adoption.

108. COMMENT: One commenter states that the CRC should clarify and add certainty regarding the 24-month moratorium on the ability of a licensee to hold more than one class of license. A cannabis processor

should be able to do both medical and recreational products for the legal license holders. (61)

RESPONSE: N.J.A.C. 17:30-6.8(e) clarifies and adds such certainty. Only a license holder holding a cannabis manufacturer license may manufacture cannabis products; only a license holder holding a medical cannabis manufacturer permit may manufacture medical cannabis products. Expanded ATCs that hold both may manufacture both.

109. COMMENT: One commenter states that “the amended portions at N.J.A.C. 17:30-6.8(d)3 and [(e)2 explicitly authorize that a license holder and its owners and principals may concurrently hold one cannabis wholesaler license and one cannabis distributor license,” and the commenter commends the CRC for these amendments. (48)

RESPONSE: The CRC acknowledges this comment and thanks the commenter for their support.

110. COMMENT: One commenter “does not agree with the proposed amendments at N.J.A.C. 17:30-6.8(d)4 and [(e)3 that permit an expanded ATC to concurrently hold a cannabis cultivator, cannabis manufacturer, a cannabis retailer license, additional cannabis retail licenses for each satellite dispensary, and a cannabis delivery service license; or a cannabis wholesaler license and a cannabis distributor license.” The commenter states that the “amended language authorizes the addition of the ‘logistics’ license types (Classes 3, 4, and 6)” that the commenter believes “should be moved outside of the supplier and retail license types, in a tiered system analogous to what exists in the alcohol industry.” The commenter notes “that the statutory language prescribes that the cannabis industry be regulated in a fashion similar to alcohol,” and the commenter believes “that the legislative intent is inclusive of a policy goal to decentralize control of the industry out of the hands of the vertically integrated companies in the state.” The commenter states that a “tiered system provides the opportunity for small businesses to thrive in an ecosystem of interdependence.” The commenter understands “that legislative action may be needed to mandate a tiered system but urges the CRC to act in its regulatory capacity to effectuate the equitable evolution of the cannabis industry in New Jersey.” (48)

RESPONSE: The proposed language does not allow an expanded ATC holding personal use cannabis cultivation, manufacturing, and retail licenses to also hold personal use cannabis logistics license types (wholesaler and/or distributor). If an expanded ATC holds a cannabis wholesaler license and a cannabis distributor license, then it may not hold cannabis cultivator, cannabis manufacturer, cannabis retailer, or cannabis delivery licenses.

111. COMMENT: Two commenters request that the Commission allow license holders, or their individual owners, the opportunity to be financial sources. The commenters believe that the current definition of a financial source, which means “a person or entity that is not an owner, passive investor, or principal of a cannabis business license applicant or license holder,” prevents owners of one entity from being a financial source to another entity. The commenters request that the definition of financial source be amended and state this will help small businesses obtain the funding they need and would serve to keep the wealth of the industry flowing back through the companies and license holders that may need it most. (187 and 221)

RESPONSE: The commenters cite text that has been deleted from N.J.A.C. 17:30-1.2, definition of “financial source” as part of the proposed clarificatory amendment. N.J.A.C. 17:30-6.8 does not include a prohibition on a license applicant or license holder or its owners or principals serving as a financial source, unlike the prohibition on serving as a management services contractor at N.J.A.C. 17:30-6.8(q). At N.J.A.C. 17:30-1.2, the definition of “financial source” prohibits an owner, passive investor, or principal of a cannabis business license applicant or license holder from serving as a financial source for that specific license holder.

Limitations on Family Members

112. COMMENT: One commenter states that N.J.A.C. 17:30-6.8(g)1 creates an unnecessary regulatory burden and unduly restricts ownership of cannabis businesses by family members. In short, the commenter states that this proposed rule seeks to solve a problem that does not exist and will exacerbate existing inequities that the State has otherwise taken noble steps to correct. While the intent of this proposed rule has not been

explicitly stated, it appears the impetus for the change is to ensure that no family group exceeds the restrictions on the quantity and type of licenses that may be held. The commenter believes that the State is well within its discretion to limit the number of licenses any individual or entity may hold, as seen in marijuana programs across the nation. However, the additional restriction on the ability of family members to engage in this new industry may serve only to further embed the past wrongs of punitive cannabis enforcement. Additionally, the commenter states it is unclear whether this prohibition on familial ownership extends to relations by marriage, that is, parents-in-law, siblings-in-law, etc. This matter is further confused by the existing regulations defining “immediate family,” which explicitly does include relations by marriage. The commenter suggests removing N.J.A.C. 17:30-6.8(g)1 completely, or alternatively, adding the following language: “This restriction applies only to immediate family, and not relations by marriage, such as parents or siblings-in-law.” (182)

113. COMMENT: One commenter states that they have concerns regarding the limitation of one cannabis license per family at N.J.A.C. 17:30-6.8. The commenter submits concerns “on the potential burden on a family member who is no longer in contact with a sibling, spouse, domestic partner, civil union partner, child, or parent and is an owner of another license or a cannabis application. From a public policy standpoint, including this limitation could harm not help applicants who have a desire to enter the market but unable to due to this limitation.” (35)

114. COMMENT: One commenter requested that in “reference to proposed regulation, N.J.A.C. 17:30-6.8(g), Limitations on license applicants, license holders, owners, principals, passive investors, financial sources, management services contractors, and vendor-contractors, please keep the existing regulatory language.” (83)

115. COMMENT: One commenter offers a comment regarding N.J.A.C. 17:30-6.8(g)1. The commenter states, “Instead of an iron-clad prohibition, the proposed rule should create a rebuttable presumption that all spouses should be treated as the same person for ownership purposes. If a spouse can establish distinct business interests and other criteria, spousal ownership should not be aggregated.” (8)

116. COMMENT: One commenter states, “The proposed rule change at N.J.A.C. 17:30-6.8(g)1 is an unreasonable change.” The commenter argues that “Limiting family members to one license undermines the CRC’s efforts to build a socially equitable marketplace.” The commenter states, “My brother and I both wish to open our own individual dispensaries. I believe the CREAMM Act was intended empower and level the playing field allowing everyone a fair shot.” However, the commenter argues that “this proposed rule change undermines this ideal and would force us to choose which relative should have the opportunity to change their lives. My brother and I have families of our own we must support and build lives for.” The commenter believes that “The CRC cannot assume all relatives get along or can see eye to eye on how to run a business.” The commenter concludes, “My brother and I have different views and this change is unfair to us and many other applicants.” (8)

RESPONSE TO COMMENTS 112 THROUGH 116: The Commission’s definition of “immediate family” closely mirrors the enabling statute. Pursuant to the CREAMM Act, “Immediate family means the spouse, domestic partner, civil union partner, child, sibling, or parent of an individual, and shall include the siblings, parents, and children of the individual’s spouse, domestic partner, or civil union partner, and the parents, spouses, domestic partners, or civil union partners of the individual’s parents, siblings, and children.” Moreover, the proposed additions at N.J.A.C. 17:30-6.8(g) reflect the existing law under the Commission’s specially adopted rules promulgated on August 19, 2021, at 53 N.J.R. 1583(a), and the proposed additional language restricting immediate family members from holding two separate licenses merely offer further clarification.

Pursuant to the Commission’s specially adopted rules, the definitions of “owner” and “aggregate ownership interest,” in combination with N.J.A.C. 17:30-6.8(g), prohibited Owner A from owning license holder A, while Owner B (Owner A’s spouse, domestic partner, civil union partner, child, sibling, or parent) owns license holder B. Ownership interest among those related persons was already calculated in aggregate. N.J.A.C. 17:30-6.8(g) states that a person or entity shall be an owner of only one license applicant or license holder. “Owner” means: 1. Any

person or entity that holds at least a five percent aggregate ownership interest in a cannabis business or testing laboratory license applicant or license holder; 2. The definition of “aggregate ownership interest” means the total ownership interest held by an owner that is a person and by the spouse, domestic partner, civil union partner, child, sibling, or parent of the person. The intent of the inclusion of the “owner” and “aggregate ownership interest” definitions and N.J.A.C. 17:30-6.8(g) in the Commission’s specially adopted rules was to prevent a person or entity from controlling more than one license applicant or license holder, and since these familial relationships are likely to result in sharing control of multiple license applicant or license holders, in order to fulfill the intent of those provisions, that activity was prohibited. The additions are at N.J.A.C. 17:30-6.8(g)1, thus, no changes will be made upon adoption in response to the comments.

117. COMMENT: One commenter states that N.J.A.C. 17:30-6.8(g)1 poses compliance challenges for owner applicants and enforcement challenges for the Commission. The commenter provides an example that “if individual Owner A has a four percent ownership interest in Company X and is the brother of individual Owner B, who has a two percent ownership interest in Company Y, both Owners A and B would be prohibited from maintaining such ownership if Companies X and Y applied for adult use cannabis permits because each of the sibling’s aggregate ownership interest is six percent (enough to qualify each as an ‘owner’ of their respective license applicant). While Owner B could be an owner of Company X on a cannabis permit application, he and Owner A would be prohibited, as siblings with an aggregate ownership interest of greater than five percent, of owning any interest in another license applicant. This appears to be the case even where the siblings (1) are estranged; (2) live in different states (and unaware of the other’s ownership interest); and/or (3) have never met.” The commenter goes on to say that “both the Commission, at the administrative level, and the State, at the appellate level, would have to spend significant Commission and taxpayer funds to enforce the restrictions on immediate family ownership, including identifying potentially obscure familial connections, and substantively defend any resulting claims that the Commission’s regulation is arbitrary, capricious, and unreasonable or vague on its face or as applied. *See, for example, In re Herrmann*, 192 N.J. 19 (2007) (noting that a court will not invalidate the decisions of administrative agencies unless they are proven to be contrary to law, unsupported by substantial credible evidence, or arbitrary, capricious, or unreasonable); *New Jersey Ass’n of Health Care Facilities v. Finley*, 83 N.J. 67, 82, appeal dismissed, *cert. denied*, 449 U.S. 944 (1980) (“regulations must “be sufficiently definite to inform those subject to them as to what is required”).” Further, the commenter states that “Upon information and belief, the purpose of the immediate family ownership prohibition, as proposed, is to prevent individuals from bypassing the current provision of the temporary regulations that precludes individuals from being an owner in more than one license applicant or license holder. *See* N.J.A.C. 17:30-6.8(f). Specifically, only ‘passive investors,’ holding less than five percent aggregate ownership interest in a license applicant or license holder may an ownership interest in another license applicant or license holder. *See* N.J.A.C. 17:30-6.8(h). However, given the complexities of some familial relationships, it is unreasonable to preclude an individual from holding an ownership interest in a license applicant or license holder, if an immediate family member, who may or may not have any current relationship with the individual, also holds an ownership interest in a license applicant or license holder.” The commenter concludes “the prohibition against immediate family members holding ownership interests in more than one license applicant or license holder should be stricken, or alternatively, only applied to significantly involved persons and not passive investors. In many circumstances, individual owners may not have actual knowledge of the immediate family member or his or her ownership interest in another license applicant or license holder. In other circumstances, the Commission will not be able to identify immediate family members, despite conducting a probity review. If identified by the owner or the Commission, enforcement may not further the goals of the prohibition and may lead to avoidable and costly litigation. In the alternative, and at a minimum, the immediate family ownership prohibition should be: (1) prospective for future applicants; and (2)

limited to current spouses or immediate family members that are significantly involved persons in other licensed companies.” (300)

RESPONSE: As mentioned in the Commission’s Response to Comments 112 through 116, the proposed additions at N.J.A.C. 17:30-6.8(g) reflect the existing law pursuant to the Commission’s specially adopted rules promulgated on August 19, 2021, at 53 N.J.R. 1583(a), and merely offer further reiterative clarification. This was always the rule. As discussed above, the existing definitions of “owner” and “aggregate ownership interest” along with the existing text at N.J.A.C. 17:30-6.8(g) already prohibited Owner A from owning license holder A, while Owner B (Owner A’s spouse, domestic partner, civil union partner, child, sibling, or parent) owns license holder B. Ownership interest among those related persons was already calculated in aggregate. The intent of the inclusion of the “owner” and “aggregate ownership interest” definitions and N.J.A.C. 17:30-6.8(g) in the Commission’s specially adopted rules was to prevent a person or entity from controlling more than one license applicant or license holder, and since these familial relationships are likely to result in sharing control of multiple license applicant or license holders, in order to fulfill the intent of those provisions, that activity was prohibited.

The spouse, domestic partner, civil union partner, child, sibling, or parent of a person is not an “obscure familial connection.” The decision of a person taking a job as a government official or employee affecting that person’s “immediate family” and their ability to participate in certain industries in order to avoid conflict of interest is common throughout New Jersey law, and is common in the CREAMM Act, including at N.J.S.A. 24:6I-24, 24:6I-27, and 52:13D-17.2. This provision provides a similar concept to prevent shared control of multiple license holders among members of an immediate family.

118. COMMENT: One commenter seeks guidance regarding the proposed re-adoption of the specially adopted new rules with amendments at N.J.A.C. 17:30-6.8(g). Specifically, the commenter says “the proposed new rules at N.J.A.C. 17:30-6.8(g)1 state: A person or entity shall be an owner of only one license applicant or license holder ... Where a person is an owner of a license applicant or license holder, that person’s spouse, domestic partner, civil union partner, child, sibling, or parent may only be an owner of such license applicant or license holder and shall not be an owner of another license applicant or license holder.” The commenter asks whether “this proposed rule applies when there is a parent/child relationship where both the parent and the child are applying for separate conditional licenses, a retail license and a manufacturing license, and are distinct but separate entities with no ownership interest for the other’s company.” The commenter understands that these rules are mere proposals, have not yet been adopted, and are open to written comments. However, the commenter states that “the above creates a conflict between the parent and child relationship if applied to current applicants, and the law firm cannot provide feedback or proceed with the conditional licenses unless the firm knows for sure that only one party can proceed and the other may obtain a mere ownership interest in one company only.” Additionally, the commenter states that “this also creates an issue of retroactivity if these proposals were adopted and whether the proposed rules would apply if the parent and child continued with their application process for their separate conditional licenses.” The commenter requests “the Commission confirm: (1) if only one party would be able to proceed with their application process due to the conflict with the proposed rules; and (2) whether these two applications can be submitted when the above rule is a mere proposal and if it were to render these applications ineffective if these rules were to be adopted.” (241)

RESPONSE: As stated in the Commission’s Response to Comments 112 through 116, the proposed additions at N.J.A.C. 17:30-6.8(g) reflect the existing law under the Commission’s specially adopted rules promulgated on August 19, 2021, at 53 N.J.R. 1583(a), and the additions merely offer further clarification. This prohibition was already in effect. As mentioned previously, the existing definitions of “owner” and “aggregate ownership interest” along with the existing text at N.J.A.C. 17:30-6.8(g) already prohibited Owner A from owning license holder A, while Owner B (Owner A’s spouse, domestic partner, civil union partner, child, sibling, or parent) owns license holder B. Ownership interest among those related persons was already calculated in the aggregate. Regarding the commenter’s request, this rulemaking does not provide advice for individual cases. Rather, this rulemaking provides the Commission’s

rationale for its proposed rule amendments. As stated above, a parent and a child may not both be owners in two separate license applicants. They may be owners together in the same license applicant.

119. COMMENT: One commenter offers a comment on the proposed provision that prohibits someone from holding a cannabis license or even applying for a license if a close family member is already a license holder/applicant. The commenter is an attorney and currently represents two women “who have been issued conditional Category 5 licenses and are in the process of preparing to submit conversion applications. Both are social equity applicants by virtue of their residences in an economically disadvantaged area. They happen to be mother and daughter.” The commenter states that “Both applications are separate and distinct and they are seeking to locate dispensaries in different counties. They both qualify for priority consideration independent of one another.” Further, the commenter states “under the proposed regulations it is unclear if they will be able to maintain their license after these new rules go into effect.” The commenter also states that “even if they are somehow deemed to be ‘grandfathered’ because their licenses were issued prior to the enactment of the regulations, this proposed family prohibition would seem to preclude other similarly situated persons.” The commenter argues that “this would violate the enabling legislation; specifically, N.J.S.A. 24:61-7.2 et seq., which specifies the factors that the CRC must consider to assess license applications. Nowhere does the statute mention a family relationship to other applicants.” Additionally, the commenter states that “the proposed regulation directly violates the express legislative intent of the statute by rendering ineligible certain social equity applicants for no other reason than they happen to be related to other people who happened to get their applications in first. N.J.S.A. 24:61-25.b(1), mandates the encouragement of “unified practices and procedures for promoting participation in the medical cannabis and personal use cannabis industries by persons from socially and economically disadvantaged communities, including by prospective and existing ownership of minority businesses and women’s businesses.” By enacting this proposed regulation, the commenter argues that “this statutory provision is effectively invalidated, at least for some.” Moreover, the commenter doesn’t believe “this can be remedied by simply making it applicable to only certain applicants without creating equal protection issues.” The commenter urges reconsideration of this provision of the regulations, and states that “it is not only inconsistent with the enabling legislation but it also has the effect of creating genuine victims.” (68)

RESPONSE: As mentioned in the Response to Comments 112 through 116, the proposed additions at N.J.A.C. 17:30-6.8(g) reflect the existing law pursuant to the Commission’s specially adopted rules promulgated on August 19, 2021, at 53 N.J.R. 1583(a), and the additions merely offer further reiterative clarification. This prohibition was already in effect. The existing definitions of “owner” and “aggregate ownership interest” along with the existing text at N.J.A.C. 17:30-6.8(g) already prohibited Owner A from owning license holder A, while Owner B (Owner A’s spouse, domestic partner, civil union partner, child, sibling, or parent) owns license holder B. Ownership interest among those related persons was already calculated in aggregate. A parent and a child may not both be owners in two separate license applicants. They may be owners together in the same license applicant. The CREAMM Act, at N.J.S.A. 24:61-36.d(1)(c)(ix), does not limit the criteria the Commission may consider in assessing applications, and explicitly states, “any other information the commission deems relevant in determining whether to grant a license to the applicant.”

120. COMMENT: One commenter respectfully requests that the CRC “permit the market to flow as it should and open it up for organic growth.” The commenter states that “With overregulation comes predatory practices.” Additionally, the commenter argues that “When you ban the ability for individuals to own multiple licenses and prevent license transfers for a period of time, it only creates bad behavior and in actuality penalizes the dreams of small business owners and entrepreneur—it doesn’t hurt the venture capitalists and private funds. When you add a time period for which they can transfer their license, it’s limiting them instead of freeing them. A lot of these individuals are still looking for a way to provide for their families and while it’s a dream come true, survival remains a priority.” The commenter states that “There was new language added that states ‘Where a person is an owner of a license applicant or

license holder, that person’s spouse, domestic partner, civil union partner, child, sibling, or parent may only be an owner of such license applicant or license holder and shall not be an owner of another license applicant or license holder”—this punishes family relationships and discourages dual ownership within a family as though it were wrong.” The commenter concludes “If a couple or family desires to and can afford or secure the means to be the owner of multiple licenses, they should be allowed to.” (45)

RESPONSE: There has been rampant market consolidation and flipping of licenses after approval in other state cannabis programs, to the detriment of small businesses, lower income owners, and consumers. Limiting owners to one license holder and mandating that the license holder remain consistent for a period of time will discourage the immediate sale of a license and using it only for its value, instead of as a vehicle to provide access to New Jersey consumers, while encouraging true good faith investment in New Jersey cannabis businesses; and will discourage market consolidation by large multi-state operators, while encouraging New Jersey entrepreneurs to enter the industry.

As stated in the Response to Comments 112 through 116, the proposed additions at N.J.A.C. 17:30-6.8(g) reflect the existing law pursuant to the Commission’s specially adopted rules promulgated on August 19, 2021, and the additions merely offer further reiterative clarification. This was always the rule. The existing definitions of “owner” and “aggregate ownership interest” along with the existing text at N.J.A.C. 17:30-6.8(g) already prohibited Owner A from owning license holder A, while Owner B (Owner A’s spouse, domestic partner, civil union partner, child, sibling, or parent) owns license holder B. Ownership interest among those related persons was already calculated in aggregate. The intent of the inclusion of the “owner” and “aggregate ownership interest” definitions and N.J.A.C. 17:30-6.8(g) in the Commission’s specially adopted rules was to prevent a person or entity from controlling more than one license applicant or license holder, and since these familial relationships is likely to result in sharing control of multiple license applicant or license holders, in order to fulfill the intent of those provisions, that activity was prohibited.

Subchapter 7—Cannabis Business Conditional and Annual Licensing Process

121. COMMENT: One commenter states that on page 112 and page 124 of the Commission’s notice of proposed readoption, should not be “or.” Instead, both should read ... “any of the methods.” (214)

RESPONSE: The proposed text at N.J.A.C. 17:30-7.2(e)3 and 7.7(d)3 allows for the use of any of the enumerated methods. Thus, no changes will be made upon adoption.

122. COMMENT: One commenter proposes amending N.J.A.C. 17:30-7.3(c)14 to exempt microbusinesses from the “bordering municipality” criterion. The commenter cites N.J.A.C. 17:30-7.3(c)14, which states: “For a microbusiness license applicant, proof that at least 51 percent of the total number of persons included in the microbusiness license applicant including all owners, principals, and employees, are residents of either the municipality in which the microbusiness is, or will be located, or of a municipality bordering such a municipality, at the time of the application.” The commenter states their entity is “finding it difficult to secure site control for our cultivation microbusiness in the limited industrial zones designated under the current terms of the legislation.” The commenter reasons that “Since the legislation is designed to support microbusinesses, we believe the CRC should investigate an update to the statute to eliminate this restriction.” The commenter requests that the Commission amend the regulation accordingly. (285)

RESPONSE: This rule is mandated by the CREAMM Act, at N.J.S.A. 24:61-36.f(2)(b). The requirement at N.J.A.C. 17:30-7.3(c)14 comes from the requirement at N.J.A.C. 17:30-6.7(c)3ii, where “at least 51 percent of the owners; 51 percent of the principals; 51 percent of the employees; or 51 percent of the total number of persons included in the microbusiness license applicant or license holder, including all owners, principals, and employees, shall be residents of either the municipality in which the microbusiness is or will be located, or of a municipality directly bordering such municipality, at the time of the application.”

123. COMMENT: One commenter states that the CRC “in the interest of social equity should remove the time period for approved conditional

license holders to convert to an annual license.” The commenter states that applicants must contend with a difficult climate and suggest that there is a “hesitation of landlords and property owners reluctant to rent or lease to cannabis related businesses.” The commenter states that “This significantly increases the length of time needed to procure a location, and can ultimately work against the intended purpose of creating the smaller license classes to achieve the CRC’s goal of inclusion through social equity.” The commenter suggests that the Commission at a minimum “allow for time extensions for an administrative fee.” (266)

124. COMMENT: One commenter requests that the Commission address extensions that are needed for conditional license holders. (265)

125. COMMENT: One commenter states that conditional license holders need more than six months to secure a location. N.J.A.C. 17:30-7.6(b) states that the conditional license phase “Expires 120 days after the day that the conditional license was issued or at the end of an extension.” The commenter has been in search for a location for over a year now and states “it’s been extremely difficult.” The commenter further requests that the CRC assist in finding conditional licensees locations due to problems regarding municipal approvals. (134)

RESPONSE TO COMMENTS 123, 124, AND 125: The 120-day period and 45-day extension are mandated at N.J.S.A. 24:6I-36. N.J.A.C. 17:30-7.6(a)2i notes that the CRC may extend a conditional license “for good cause, as deemed necessary by the Commission.” The CRC will continue to research and consider solutions to the issue of difficulty of conditional applicants in finding suitable locations due to the current municipal landscape. Additionally, pursuant to Resolution 2023-70, the Commission delegated the authority to grant extensions of the conditional license phase at N.J.A.C. 17:30-7.6(a) to the Commission’s Permitting and Licensing Committee, which will expedite the process for granting extensions.

126. COMMENT: One commenter requests that on Page 125 of the Commission’s notice of proposal, that the Commission not remove reference to “requiring truthful info in the application process.” The commenter requests that the Commission not give an untruthful applicant the “opportunity to cure deficiencies.” The commenter states that if an applicant provides untruthful information, they must be automatically disqualified. (214)

RESPONSE: N.J.A.C. 17:30-7.7(h) allows the Commission to deny a license due to the submission of false or intentionally misleading information in the application process. The proposed text at N.J.A.C. 17:30-7.7(g) does not give an untruthful applicant the opportunity to cure.

127. COMMENT: One commenter states that, in regards to N.J.A.C. 17:30-7.8(a)3i, which discusses the proposed location of a cannabis business the CRC should add “Proof of the minimum distance of 1,500 feet (measured from Property Line to Property Line) along with distance from the closest church, synagogue, temple, or other place used exclusively for religious worship; community recreation center; substance addiction or rehabilitation center; or nearest residential dwelling,” and the commenter requests that the CRC delete the word “or.” The commenter also requests to amend N.J.A.C. 17:30-7.8(a)3ii to add the distance to the closest school, playground, park, or child daycare facility.” (340)

RESPONSE: The examples of facilities listed at N.J.A.C. 17:30-7.8(a)3i come from N.J.A.C. 17:30-5.1(a)2, the power of the municipality to enact an ordinance or regulation that requires a cannabis business to be a certain distance from the closest church, synagogue, temple, or other place used exclusively for religious worship; or from the closest school, playground, park, or child daycare facility. The license applicant need only provide a submission regarding the facilities listed in the relevant local code or ordinance.

128. COMMENT: One commenter states that, in regards to N.J.A.C. 17:30-7.8(a)5, the CRC should add the following language: “After two public hearings have been posted to the ‘Public Notices’ of that municipality with clear agenda notices that identify the purpose of these open public hearings calling for local input on ‘Public Support’ of those proposed cannabis operations [cultivator, cannabis manufacturer, or cannabis retailer].” (340)

RESPONSE: The Commission declines the requested amendment requiring a municipality to have a public hearing in order to determine “proof of local support.” Each municipality may use its own processes as it sees fit.

129. COMMENT: One commenter states that, in regards to N.J.A.C. 17:30-7.10(b)7, the CRC should add “Proof of the minimum distance of 1,500 feet (measured from Property Line to Property Line) along with distance from the closest church, synagogue, temple, or other place used exclusively for religious worship; community recreation center; substance addiction or rehabilitation center; or nearest residential dwelling,” and requests to delete the word “or.” (340)

RESPONSE: The examples of facilities listed at N.J.A.C. 17:30-7.10(b)7 come from N.J.A.C. 17:30-5.1(a)2, the power of the municipality to enact an ordinance or regulation that requires a cannabis business to be a certain distance from the closest church, synagogue, temple, or other place used exclusively for religious worship; or from the closest school, playground, park, or child daycare facility. The license applicant need only provide a submission regarding the facilities listed in the relevant local code or ordinance.

130. COMMENT: One commenter states that at N.J.A.C. 17:30-7.10(b)9, “‘No governing body’ does not make sense pursuant to the State Bar letter.” (214)

RESPONSE: This comment does not make a request and includes a reference to an external document (that is, “State Bar letter”) not presented.

131. COMMENT: Two commenters request that N.J.A.C. 17:30-7.10(c) be clarified. Specifically, the commenters ask what is considered a “premises?” The commenters ask that if a cannabis retailer is located in a strip mall that also has a delicatessen, but the storefront has a separate entrance/exit, and no connecting corridors to the food store would the space not be approved? Further, the commenters asked whether there is a certain amount of distance that would be permitted between a food store and cannabis retailer if they share the same parking lot but have separate addresses. (36 and 305)

RESPONSE: The definition of “premises” at N.J.A.C. 17:30-1.2 only refers to cannabis business premises. For the purposes of N.J.A.C. 17:30-7.10(c) and 17:30-14.1(a), the premises of a retail food establishment or alcoholic beverage seller facility ends at the limits of such facility, as long as there is no access between such facility and a cannabis business, including in a strip mall.

132. COMMENT: One commenter asks what are the requirements of liability insurance for a dispensary or cultivator? (325)

RESPONSE: N.J.A.C. 17:30-7.3 and 7.10 require conditional and annual cannabis license applicants to submit “the plan by which the license applicant intends to obtain appropriate liability insurance coverage for the proposed cannabis business.” The Commission includes the word “appropriate” because it understands each cannabis business may require different types of liability insurance. This ensures that the cannabis business purchase the necessary coverage needed.

133. COMMENT: One commenter requests that the Commission amend N.J.A.C. 17:30-7.14(f), which states “A license applicant shall have 365 days from the date of the notice of approval to request a final onsite assessment pursuant to (h) below.” The commenter states that the requirement of 365 days to request a final onsite assessment could be impossible and create a burden to businesses by the Commission declining to issue a license based on that 365-day requirement. Further, the commenter states that Local and Regional (Pinelands Commission) jurisdiction approval and inspection requirements could create a delay in the construction process beyond its control. Additionally, the commenter states that considering the current delays in supply chain and workforce availability due to the COVID-19 pandemic that are beyond an applicant’s control, the 365-day limit should be removed or modified, as long as there is a good faith effort to complete construction as soon as possible. The commenter requests that the 365-day requirement be changed to reflect an extension of time to complete construction due to unforeseen delays. The commenter suggests that revised language should give the Commission the ability to extend the deadline for additional 90-day periods in its discretion. (151)

134. COMMENT: Several commenters request that the Commission amend N.J.A.C. 17:30-7.14(k), which states, “If the Commission determines that the annual license applicant is not compliant pursuant to (g) above, or the license applicant does not undergo a successful final onsite assessment yielding a determination of compliance pursuant to (i) above within 365 days of the notice of approval, the Commission shall

decline to issue the annual license approval and the license shall be returned to the Commission.” The commenters state they have been informed of major delays in the construction supply chain, and have met with multiple general contractors that have all confirmed current minimum 12-month delays on essential construction materials like electric power transformers and roof insulation. The commenters state that supply chain issues may keep a large percentage of new conditional licensees from being able to complete construction and final inspection within 365 days of the notice of approval on conversion applications. The commenters request that the Commission adjust the language, and suggest changing “shall” to “may” in the regulation to give itself the flexibility of determining extenuating circumstances. (27, 30, 344, 42, 157, 167, 194, 242, 265, 322, and 333)

RESPONSE TO COMMENTS 133 and 134: License holders shall seek to meet the 365-day deadline, once the approval has been granted, even if that means waiting to seek the license until the applicant is fully ready. If an event occurs that is impossible to foresee and out of the license holder’s control, the license holder may apply to the Commission for a waiver pursuant to N.J.A.C. 17:30-3.7, which the Commission will decide on a case-by-case basis.

135. COMMENT: One commenter states the costs associated with becoming an Expanded ATC pursuant to N.J.A.C. 17:30-7.17(d) is substantially higher than the costs of simply obtaining a Class 5 Retail License. The commenter states that “Expanded ATC dispensaries pay 10 times more than their adult-use counterparts, with the only difference between these two types of licenses is that the Expanded ATC has committed to also servicing the patient population, including through exclusive patient hours, express patient access, and inventory reserves.” The commenter states that the total application fees for a Class 5 retailer is \$12,000, whereas the total fees for an Expanded ATC total \$120,000 (this includes the submission fee, annual medicinal fee, expanded ATC certification fee, and renewal fee). The commenter proposes that the “Expanded ATC certification fee mirror the application and approval fees of adult-use operators, with the annual medical fee waived and replaced with the adult-use renewal fee.” (221)

RESPONSE: N.J.A.C. 17:30-7.17(d)5iii provides that that Expanded ATC certification fee for medical cannabis dispensary expansion is \$100,000, not \$120,000. Expanded ATCs are provided early access to the personal use cannabis market, exemptions from vertical integration limits, and involve multiple licenses and satellite retail locations, yielding more investigative time spent by the CRC. The Expanded ATC fees, in accordance with N.J.S.A. 24:6I-34.b(5)(g), are “reasonably calculated not to exceed the cost of the activity for which the fee is charged.” Additionally, the Expanded ATC certification fee is a one-time fee. After the Expanded ATC certification fee is paid, the expanded ATC retailer pays the same renewal fees as other Class 5 retail license holders.

136. COMMENT: Two commenters state that the licensing approval process is too long and complex. (104 and 139)

RESPONSE: In order to seek and implement the Commission’s goal of preventing market consolidation by larger, wealthier organizations and to encourage a broad, diverse group of New Jersey applicants, the Commission must request a significant amount of information from applicants to ensure they are providing accurate information. Additionally, on December 15, 2021, the Commission began accepting applications for Class 1 Cultivation, Class 2 Manufacturing, and Testing Laboratory licenses. By March 11, 2022, the Commission received a total of 389 applications, which consumed significant time reviewing the applications; however, the Commission anticipates that the process will move more quickly as the volume of applications eventually diminish. The Commission is always considering methods to reduce the burden on applicants and would welcome further recommendations from members of the public on which pieces of the licensing approval process they feel are redundant or unnecessary.

Subchapter 8

137. COMMENT: One commenter suggests additional language to the issuance of Cannabis Business Identification Cards pursuant to N.J.A.C. 17:30-8.1(b)2. The commenter argues that due “to the large turnover in this industry and the normal apprentice time a new employee will undergo, the requirement of a training course should be related to the

apprentice time and whether the cannabis company has indeed employed the individual.” The commenter further states this “should also be appropriate for interns who will not be allowed if the cannabis company has to require them to take a course, when they only may work a total of 80 hours over multiple months.” The commenter suggests adding the following language at N.J.A.C. 17:30-8.1(b)2 (additions in bold): “Has **within 180 days of employment** completed a training course.” Thus, the commenter requests that employees be issued Cannabis Business Identification Cards, prior to the training course being completed, as long as the training is completed within 180 days of employment. (61)

RESPONSE: A person handling cannabis must be properly trained before receiving a Cannabis Business Identification Card, as is noted in the CREAMM Act, at N.J.S.A. 24:6I-44.d(1)(a). Thus, the suggested changes will not be made upon adoption. However, completion of an approved training by a Cannabis Business Identification Card applicant while working previously at a different cannabis business satisfies this training requirement. It should also be noted that Cannabis Business Identification Card training at Subchapter 8 is separate from any cannabis business employee training requirements at N.J.A.C. 17:30-9.8. Each cannabis business is responsible for training all their employees, regardless of whether an employee has worked in another cannabis business.

138. COMMENT: One commenter states that “as the rule proposal is currently drafted, a newly-hired employee cannot work in a licensed cannabis facility until the background check process is complete and the physical badge is received.” The commenter proposes “that the CRC formally adopt a provisional badging system, similar to that used in Illinois and many other jurisdictions, whereby an employee is able to begin working [before the] background check comes back clear then the employee receives their badge; if there is a disqualifying record in the background check then the employee can no longer return to the facility.” It is the commenter’s understanding that “provisional badging has been permitted in practice in New Jersey from time to time, recognizing that delays in processing background checks, sometimes up to six months or more, has made the onboarding of new employees extremely onerous in the currently tight labor market.” Especially as new licensees attempt to open their businesses, the commenter respectfully requests “that the CRC formalize and make permanent the concept of provisional badging uniformly across all ATC permit and cannabis license holders, and have it apply to the badges for all license types.” As well, the commenter suggests “that once badged, an employee should be permitted to work at any licensed premises owned or controlled by the same entity, and that an employee who separates from one licensee be allowed to work for another licensee without performing additional fingerprinting and criminal history checks, or paying an additional fee, if they are hired by another business during their registration period.” (256).

RESPONSE: N.J.A.C. 17:30-7.12(f) provides for provisional status regarding the criminal history background check, including for the purposes at N.J.A.C. 17:30-8.1(b)3. The other elements of N.J.A.C. 17:30-8.1(b) still apply to an employee before they may receive a Cannabis Business Identification Card.

Subchapter 9—Cannabis Business License Holder Material Conditions and Requirements

139. COMMENT: One commenter states that, pursuant to N.J.A.C. 17:30-9.3, Transfer of interest ownership of deceased to heir, spouse, must specify that any new owner must prove all qualifications of ownership as would any other applicant. One example the commenter provides includes passing a background check. (214)

RESPONSE: N.J.A.C. 17:30-7.11 and 7.12, and all other sections of the rules that apply to owners would apply to a new owner receiving ownership interest in a transfer.

140. COMMENT: One commenter requests lifting the prohibition of alternative names pursuant to N.J.A.C. 17:30-9.4(b), which prevents a cannabis business using, displaying, advertising, or operating under any alternative name, unless said name was approved prior to August 19, 2021. The commenter argues “that the problem results from where a medical operator with an approved trade name [after August 19, 2021] that expands into adult-use would be permitted to continue to use, display, and advertise its alternative name in the medical marketplace, but

prohibited from doing so in the adult-use marketplace; notwithstanding the fact that Expanded ATCs are prohibited from having any physical separation or differences between and among its medical and adult-use operations.” Alternatively, the commenter proposes that the CRC “allow any and all winners from the 2019 RFA to utilize d/b/a’s, given that their corporate names have been in use since well before the adult-use regulations were adopted.” (221)

141. COMMENT: One commenter objects to the CRC’s continued prohibition on the use of alternative names at N.J.A.C. 17:30-9.4(b). The commenter is “unaware of the genesis of such a prohibition, but simply identify that given the diligence, suitability, and probity with which all license applicants are subject to, a prohibition on utilizing a trade name lacks a clear basis or value under either law or policy.” Further, the commenter states “this addition perhaps provides the greatest example for the incongruity associated with a prohibition on name changes, given that a medical operator with an approved trade name that expands into adult-use would be permitted to continue to use, display, and advertise its alternative name in the medical marketplace, but prohibited from doing so in the adult-use marketplace; notwithstanding the fact that Expanded ATCs are prohibited from having any physical separation or differences between and among its medical and adult-use operations.” (223)

RESPONSE TO COMMENTS 140 and 141: The prohibition of alternate names at N.J.A.C. 17:30-9.4(b) was promulgated to prevent cannabis establishments from misleading the public and enables staff to conduct probity reviews more quickly and efficiently.

142. COMMENT: One commenter respectfully “requests language be added to allow for licensing agreements with cannabis brands from outside of New Jersey,” which appears to be prohibited at N.J.A.C. 17:30-9.4(b), which states “a cannabis business shall not use, display, advertise, or operate under any alternate name, including, but not limited to, any doing business as an alternate name, nor shall it hold itself out to be an entity operating under an alternate name.” (197)

RESPONSE: The Commission has determined that N.J.A.C. 17:30-9.4(b) does not prevent cannabis businesses from licensing agreements with out-of-State entities. The Commission only requires that the entity is registered with the New Jersey Department of the Treasury, Division of Revenue. Thus, no changes will be made upon adoption.

143. COMMENT: One commenter states that in reference to N.J.A.C. 17:30-9.4(e), titled “Ongoing material conditions and general requirements applicable to cannabis business license holders,” any “administrative overhead should be strictly limited to employees/contractors hired/retained by the organization, of which all necessary employee/contractor records will be maintained as per regulations.” The commenter suggests the following: 1. Remove proposed N.J.A.C. 17:30-9.4(e)2; 2. Change “monthly progress reports” to “annual summary reports” at N.J.A.C. 17:30-9.4(e)4; and 3. Revise N.J.A.C. 17:30-9.4(e)1, 3, and 4 to N.J.A.C. 17:30-9.4(e)1, 2, and 3. (83)

144. COMMENT: One commenter is concerned that N.J.A.C. 17:30-9.4(e)4, which requires the submission of monthly progress reports towards “good faith efforts,” creates an undue burden on businesses. The commenter notes the while “we believe the additions at N.J.A.C. 17:30-9.4(e) create a tremendous step forward in achieving” an equitable cannabis industry, the commenter “recommends that the Commission instead mandate the maintenance of these records for inspection during an examination.” Alternatively, the commenter suggests that “the Commission could require that reports be submitted only when such hiring or contracting occurs, thus creating an alternative mechanism for identifying non-compliant businesses by flagging those that have not submitted any such reports.” (217)

RESPONSE TO COMMENTS 143 AND 144: Documentation of good faith efforts at recruitment is an important piece of accountability to ensure that such good faith efforts are occurring, whether or not they lead to hiring. Documenting the process has value aside from employee/contractor records. However, in response to the comments, the Commission is modifying N.J.A.C. 17:30-9.4(e)4 upon adoption to require quarterly, rather than monthly, reports.

145. COMMENT: One commenter states that one area of concern is the requirement at N.J.A.C. 17:30-9.4(h) that license holders make a “good faith effort” to enter into a collective bargaining agreement (CBA). The commenter states that “though it appears the ‘good faith effort’

language was added to soften the statutory language mandating a CBA within 200 days, the ‘good faith effort’ language and apparently attendant risk of punishment for failure to do so present additional problems.” The commenter states that the “[National Labor Relations Act] (NLRA) expressly provides that the failure to bargain in good faith over wages, hours, and other terms and conditions of employment is an unfair labor practice.” The commenter states that “it is well established that the states are prohibited from regulating activity that is actually or arguably protected or prohibited by the NLRA, and it is equally well established that states may not supplement the [National Labor Relations Board’s] unfair-labor-practice remedies with remedies of their own.” The commenter states that “amending the Commission’s regulations to remove the ‘good faith effort’ requirement would eliminate those concerns.” Alternatively, the commenter believes that “these concerns could be assuaged through regulatory language, revisions, or assurances from the Commission about its enforcement of this requirement.” To that end, the commenter proposes that if the Commission prefers to retain the “good faith effort” requirement, it amend its regulations to: 1) Clarify that the Commission will not adjudicate or take adverse action against a license holder based on claims that the license holder has failed to make a good-faith effort to enter a CBA; and/or optionally 2) State that the Commission will refer all allegations that a license holder is engaging in bad-faith bargaining to the National Labor Relations Board by directing a responsible Commission official to file an unfair-labor-practice charge with the appropriate NLRB regional office. (66)

RESPONSE: The Commission is modifying N.J.A.C. 17:30-9.4(h) upon adoption to remove the good faith effort language and clarify that staff of the Commission will refer all allegations to the National Labor Relations Board and file an unfair-labor charge with the appropriate NLRB regional office if a license holder is deemed to be engaging in bad-faith bargaining or is out of compliance with the ongoing material conditions at N.J.A.C. 17:30-9.4.

146. COMMENT: One commenter states that N.J.A.C. 17:30-9.4(m)5iii, provides “Nothing shall authorize an alternative treatment center that has not been licensed as an expanded ATC pursuant to N.J.A.C. 17:30-7.1 to operate on the same premises as a cannabis business license applicant or license holder.” The commenter requests that “premises” be changed to “physical plant,” to permit an ATC that has not expanded to share a common lobby and other building amenities (for example, common restrooms) with a cannabis business. The commenter explains that “in the case of an ATC dispensary only, the physical plant is where the actual retail sales occur and cannabis is held. In a multi-tenant building, there is often a lobby area or public area that could be used by other tenants (including other tenants who are cannabis businesses) with security just like a Class A office building, and then separately demised premises for each of the individual businesses.” Since the defined term “premises” includes these public areas it would prevent an ATC that has not expanded from locating in such a building. (254)

RESPONSE: The Commission is modifying N.J.A.C. 17:30-9.4(m)5iii upon adoption in response to the comment, to indicate that an unaffiliated cannabis business and ATC can be in the same building, with certain restrictions.

147. COMMENT: One commenter suggests amending N.J.A.C. 17:30-9.4 to the following “Municipalities will consider it a *per se* nuisance if: 1) odorous contaminants are detected when one (1) volume of the odorous air has been diluted with seven or more volumes of odor-free air; or 2) the Department of Environmental Health of the Municipality receives five or more complaints from individuals representing separate households within the municipality within a 12-hour period relating to a single odor description, and the [Department of Environmental Health of the municipality] verifies the source of the odor. 1. ‘Odor control equipment’ means any equipment utilized to counteract the distinguishable odor of the cannabis plant. 2. ‘Odor Control Plan’ means a written plan which describes specific odor mitigation technologies and techniques incorporated to ensure that odors are not detected off-site. 3. ‘Odor detection threshold’ means the threshold for the detection of odorous contaminants when one volume of the odorous air has been diluted with seven or more volumes of odor-free air as measured by any instrument, device, or any other method designated by the Municipality. (m) No person may cause, permit, or allow the emission of odorous matter in

concentrations and frequencies or for durations that odor can be perceived when one volume of odorous air is diluted with seven volumes of odor-free air for two separate trials not less than 15 minutes apart within the period of one hour. This odor evaluation shall be taken at a location outside of the cannabis installation's property boundary." (340)

RESPONSE: N.J.A.C. 17:30-9.4(k) seeks to prevent odors. The Commission will monitor the odor control issue and the success of this provision and will reevaluate whether to add additional odor control provisions in the future, if deemed necessary. However, the Commission will not add the commenter's suggested language upon adoption at this time.

148. COMMENT: Two commenters questioned the prohibition of the sale of food on the premises of a cannabis business at N.J.A.C. 17:30-9.5. The commenters state that municipalities have very small areas zoned for cannabis establishments and this regulation cuts out nearly all of the available retail spaces because food establishments are in almost every strip mall. (36 and 305)

RESPONSE: The prohibition of the sale of food is derived from the CREAMM Act, at N.J.S.A. 24:6I-35.a(14)(b), which states "A cannabis retailer's premises shall not be located in or upon any premises in which operates a grocery store, delicatessen, indoor food market, or other store engaging in retail sales of food, or in or upon any premises in which operates a store that engages in licensed retail sales of alcoholic beverages, as defined by subsection b. of R.S.33:1-1." However, it should be noted that "premises" at N.J.A.C. 17:30-9.5(b) refers to the cannabis business "premises," which does not include other businesses that are separated by walls with no adjoining or connected access from the cannabis business, including in a strip mall.

149. COMMENT: One commenter requests that N.J.A.C. 17:30-9.5 be amended to "allow sale of non-alcoholic beverages on premises outside of cultivation spaces." The commenter suggests the following language at N.J.A.C. 17:30-9.5(b): "Sales of food, beverages, alcohol, or tobacco on the premises of a cannabis business are prohibited, except that sales of food and non-alcoholic beverages to personnel of such cannabis business on the premises in an area separated from the physical plant are permitted." (83)

RESPONSE: The Commission is modifying N.J.A.C. 17:30-9.5(b) on adoption in response to the comment to allow the sale of non-alcoholic beverages to personnel of a cannabis business.

150. COMMENT: One commenter suggests enabling "cannabis consumption area businesses to offer non-cannabis-infused food and beverage products for sale to consumers" at N.J.A.C. 17:30-9.5(b). The commenter states that "Prohibiting the sale of non-cannabis-infused food and beverage products on the premises of a cannabis consumption area significantly hinders the viability of this cannabis business type, as it prevents establishments from creating an environment where consumers will want to visit and spend time." Additionally, the commenter states that "by limiting the ability to offer non-cannabis-infused food and beverages, the revenue streams for these cannabis consumption area businesses are capped, further straining their bottom line." (197)

RESPONSE: This prohibition is based on the CREAMM Act, at N.J.S.A. 24:6I-35.a(14)(b), which prohibits cannabis businesses from acting as retail food establishments, with limited exceptions. It should be noted that the Commission has proposed cannabis consumption areas in a separate rulemaking, see 55 N.J.R. 100(a).

151. COMMENT: Several commenters state that at N.J.A.C. 17:30-9.5(c), "No one under age 21 years should be allowed onto cannabis business premises including consumption areas, regardless of accompaniment by parent or guardian." (25, 60, 162, 174, 189, 214, 275, 301, and 307)

RESPONSE: The CREAMM Act, at N.J.S.A. 2C:35-10d(f), states "Except as permitted by the commission by rule or regulation, or as necessary on an emergency basis, a person under legal age for purchasing cannabis items may not enter or attempt to enter any portion of a licensed premises that is posted or otherwise identified as being prohibited to the use of persons under legal age for purchasing cannabis items, unless accompanied by and supervised by a parent or legal guardian." N.J.A.C. 17:30-9.5(c), which prohibits entry on to a cannabis business by a person under 21 years of age, "unless the individual is accompanied by and supervised by a parent or legal guardian or is otherwise permitted by law"

mirrors the language of the statute. Thus, no changes will be made upon adoption.

152. COMMENT: One commenter suggests adding additional language at N.J.A.C. 17:30-9.5, Prohibitions applicable to a cannabis business. The commenter argues that as "other licensed cannabis businesses enter the marketplace, many will desire their own identity and thus want products made under their brand. This should be allowed to be acceptable by a Class 2 Manufacturer." The commenter further states "to prevent the flooding of the NJ cannabis market with out of state brands, products should only be manufactured for actual NJ licensed businesses using their brands and none other." The commenter suggests adding the following language to the regulation: "A licensed Cannabis business cannot manufacture products under any name/brand that Isn't specifically licensed to operate in the state by the NJ Cannabis Regulatory Commission. Notwithstanding, a Cannabis business shall also have the right to manufacture products for other NJ licensed cannabis business under their specific name/brand." (61)

RESPONSE: As the rules stand upon adoption, Class 2 manufacturers are able submit their own proposed branding and labeling to the Commission for approval. The Commission does not discriminate against out-of-State entities and will not add the language suggested by the commenter.

153. COMMENT: One commenter suggests adding additional language at N.J.A.C. 17:30-9.7, Cannabis business recordkeeping. The commenter states that the Commission's right to audit a cannabis business "needs to be more clearly defined so as to avoid any commercially unreasonable practices." The commenter suggests adding the following language to the regulation: "The cost and extent of such audit should be commercially reasonable in relation to the size of the cannabis business and their records. The Commission shall not require an audit of a cannabis business which generates less than \$3,000,000 of revenue each fiscal year, and the commission should give preference to a certified public accountant chosen by the cannabis business." (61)

RESPONSE: N.J.A.C. 17:30-9.7(e) provides rules for an audit. The Commission will monitor the situation and whether there are commercially unreasonable practices and may consider amending this language in the future, if deemed necessary. However, the Commission will not add the commenter's suggested language upon adoption until further research has been conducted.

154. COMMENT: Several commenters request that, pursuant to N.J.A.C. 17:30-9.10, Security, the original tapes or digital pictures produced by the required video surveillance system must be stored in a safe place "with a minimum 180-day archive, not 30-day archive." The commenters further states that "the words 'safe place' referenced in the rules needs to be specifically defined." (25, 162, 214, 199, 301, and 307)

RESPONSE: N.J.A.C. 17:30-9.10(b)9ii contains sufficient surveillance footage recordkeeping requirements. The CRC has the ability to inform the cannabis business to not delete certain surveillance footage related to a matter under investigation. This is in addition to the required storage of all surveillance for the 30-day archive period.

155. COMMENT: One commenter states that at N.J.A.C. 17:30-9.11, there is "contradictory language." The commenter states that paragraph (a)2 says notification within three hours, but subsection (b) says notify within 24 hours. (214)

RESPONSE: N.J.A.C. 17:30-9.11(a)2 refers to notifications after diversion-related activity. N.J.A.C. 17:30-9.11(b) refers to notifications regarding alarms or security. They have different notification periods, both of which are very soon after the event.

156. COMMENT: One commenter suggests adding additional language at N.J.A.C. 17:30-9.13, Inventory. The commenter states that the regulation has "no mention of product used for R&D." The commenter suggests adding the following bold language to the regulation: "Conduct an initial comprehensive inventory of all cannabis in the possession of the cannabis business, including cannabis available for cultivation or manufacturing, **available or used for Research and Development purposes**, finished usable cannabis available." (61)

RESPONSE: The Commission is changing N.J.A.C. 17:30-9.13(a)2 upon adoption in response to the comment to add cannabis available for research and development purposes.

157. COMMENT: One commenter suggests creating a “Cannabis Waste Operator license,” which the commenter adds would add “a new layer of oversight to waste with reporting and rendering requirements fulfilled by professionals with no vested interest in waste being diverted to the illicit market.” The commenter suggests that “Waste Operators would generate a manifest with the weight of the waste, when they picked it up, how it was rendered, who rendered it, and would also be required to render waste on video. Waste operators have the knowledge to render waste in the most environmentally friendly and compliant ways, with the least risk to employee health.” The commenter believes that “Creating this new license type would also mean additional licensing and application fees to the NJ-CRC which would more than cover the administrative costs, and naturally, help enforce waste compliance to other licensees without any additional cost to the NJ-CRC.” The commenter concludes “This new license would create a new market for waste operators where everyone could find their niche.” (234).

RESPONSE: The rules on who may transport the relevant waste are at N.J.A.C. 17:30-9.14(a)3, and it prescribes two standardized methods of waste collection and transportation already used by the Department of Environmental Protection. At this time, there is no need to create an additional license outside of these standardized methods, and existing waste operators will assist in the industry under this model.

158. COMMENT: One commenter states that pursuant to N.J.A.C. 17:30-9.14, “the CRC should not allow cannabis businesses to put destructed cannabis disposal into solid waste or compost streams because this is a public health and safety issue.” The commenter requests that the CRC not allow cannabis waste even with 50 percent non-cannabis items, such as cat litter “to be stored outside before pickup.” (214)

RESPONSE: The commenter did not state why destroyed cannabis waste is a “public health and safety issue” for the solid waste and compost streams. The proposed waste management plan will protect public health and safety, allowing cannabis waste to be treated similarly to other non-hazardous green waste, with some additional precautions against diversion.

159. COMMENT: One commenter states that, regarding N.J.A.C. 17:30-9.14, Destruction or disposal of cannabis waste, “we respectfully disagree that an A901 Solid Waste Transporter should be involved or that a licensee should need to register as a Self-Transporter to complete the waste disposal process, and should instead be able to dispose of unrecognizable material the same as any other non-cannabis waste.” The commenter reasons that “once cannabis product is rendered unrecoverable, unrecognizable, and useless for diversion, it is of no use whatsoever, neither for digestion nor illicit sale. Requiring operators to hire an additional contractor to dispose of said waste, or to take on another compliance procedure and registration themselves, creates a redundant cost and a needless compliance burden.” The commenter concludes, “Put simply, if the product has been rendered unrecognizable, we believe it should be treated no differently than regular garbage.” (217)

RESPONSE: The Commission is treating unrecoverable cannabis waste similarly to regular garbage, in that businesses that generate cannabis solid waste may dispose of it in its normal trash disposal. However, pursuant to the New Jersey Department of Environmental Protection’s (NJDEP) rules, if the business is also transporting waste to a landfill or a secondary location, it is required to register with the NJDEP to obtain a Self-Generator Decal or alternatively must contract with an A901 licensed transporter. See <https://nj.gov/dep/enforcement/waste/decals/sg2.html>.

160. COMMENT: One commenter states—“After reviewing the statutes around cannabis waste destruction in New Jersey, namely, N.J.A.C. 17:30-9.14, it appears that anything other than destruction is not legal.” The commenter expresses issues with the regulation “not mentioning recycling at all,” and further states that “it appears the NJ-CRC’s hands are tied by the statute that was passed by the Legislature.” The commenter states that “Just like N.J.A.C. 17:30-9.14, N.J.A.C. 17:30-9.14 does not mention recycling at all, and I suspect that is why N.J.A.C. 17:30-9.14 does not either, you copied largely from that statute.” The commenter suggests that “If the sustainability plans described at N.J.A.C. 17:30-9.4(k) are to have any meaning or any value, you must amend both N.J.A.C. 17:30-9.14 and 17:30-9.14 [sic] Destruction or Disposal of

Cannabis Waste and Hazardous Waste to allow for the full recycling of cannabis waste immediately.” (234)

161. COMMENT: One commenter states that N.J.A.C. 17:30-9.14, Destruction or Disposal of Cannabis Waste and Hazardous Waste, “appears to be in direct conflict to the stated goals at N.J.A.C. 17:30-9.4, Ongoing material conditions and general requirements applicable to cannabis business license holders, specifically paragraph (k)4.” The commenter states that “N.J.A.C. 17:30-9.4(k)4 discusses the goal of license holders implementing ‘A sustainable packaging plan that reduces or eliminates the use of single-use plastics and promotes the use of recyclable or [green] environmentally friendly packaging.’” The commenter suggests that the Commission’s “stated goal of ‘recyclable’ packaging is undercut by the language at N.J.A.C. 17:30-9.14, which never once mentions it being legal to recycle cannabis waste, meaning it is not legal to recycle cannabis waste.” The commenter further states “As N.J.A.C. 17:30-9.14(a) clearly states, ‘A license holder shall manage ... cannabis waste ... by either: destroying the material through incineration; or rendering the material unrecoverable, unrecognizable, and useless for diversion, and then disposing of the material by either transporting it off-site as solid waste or composting it on-site.’ Destruction by incineration is definitionally not recycling, nor does it even permit that option.” Additionally, the commenter states that “rendering a ‘material unrecoverable, unrecognizable, and useless’ definitionally means it cannot be recycled, as recycling is a form of recovery and thus banned by your regulations.” The commenter concludes that while the Commission has “composting written into your regulations and that can be a feature of the sustainability plans described at N.J.A.C. 17:30-9.4(k), recycling is not allowed by your current regulations and that is a huge problem.” (234)

RESPONSE TO COMMENTS 160 AND 161: N.J.A.C. 17:30-9.14(a)2i(2) and iii(2) provide for composting cannabis waste, along with disposal and destruction. The Commission is modifying N.J.A.C. 17:30-9.14(a)2i(2) upon adoption to ensure that composting is a viable solution.

162. COMMENT: One commenter states that, regarding N.J.A.C. 17:30-9.14, Destruction or disposal of cannabis waste and hazardous waste; expiration of license procedures, “an operator should be able to contract with established composting companies and compost off-site.” The commenter suggests the following amendment at N.J.A.C. 17:30-9.14(a): “A license holder shall manage non-hazardous unusable cannabis, cannabis waste, or cannabis items, including returned, recalled, or usable cannabis or cannabis products that have expired, by either: destroying the material through incineration; or rendering the material unrecoverable, unrecognizable, and useless for diversion, and then disposing of the material by either transporting it off-site as compost or solid waste, or composting it on-site.” (83)

163. COMMENT: One commenter states that, regarding N.J.A.C. 17:30-9.14(a)2(iii)(1), “an operator should be able to contract with established composting companies and compost off-site.” (83)

RESPONSE TO COMMENTS 162 AND 163: The Commission is changing N.J.A.C. 17:30-9.14(a) upon adoption in response to the comments to include composting and transportation to an approved off-site composting location.

164. COMMENT: One commenter states that an “issue at N.J.A.C. 17:30-9.14(a) is the broad requirement for all waste to be incinerated or rendered ‘unrecoverable, unrecognizable, and useless.’” The commenter suggests that “California originally had a similar requirement and has realized it was a mistake and an unnecessary burden on cannabis license holders. California’s Department of Cannabis Control (DCC) previously defined ‘cannabis waste’ as ‘waste that contains cannabis and that has been made unusable and unrecognizable in the manner prescribed in section 15054 of this division.’” The commenter further states that “The DCC has since updated it to completely eliminate the definitional requirement for waste to be ‘Unrecognizable,’ but in other sections of their regulations, like §15728. Post Testing Sample Retention, there is still language requiring waste to be unrecognizable.” The commenter suggests that the Commission “should take a similar ‘surgical’ approach to unrecognizability and not require it for ESDs.” The commenter concludes that “Not only is it dangerous to employees if vape hardware is improperly rendered, it is a serious environmental harm, and should only be done by businesses and individuals with the specialized training to do it in a compliant way.” (234)

RESPONSE: The Commission is adding N.J.A.C. 17:30-9.14(a)5 upon adoption in response to the comment pertaining to e-cigarettes and the disposal of hazardous wastes (batteries), related thereto.

165. COMMENT: One commenter states he is attempting to reconcile the conflicting language at existing N.J.A.C. 17:30-9.15(i)1 and proposed N.J.A.C. 17:30-9.15(n). The commenter states that N.J.A.C. 17:30-9.15(i)1 provides that operators can only “travel between the originating cannabis business premises and the receiving cannabis business premises and shall not deviate from the delivery path.” With the impending issuance of Class 4 Cannabis Distributor licenses and this emerging aspect of the New Jersey market, the new language at N.J.A.C. 17:30-9.15(n) provides a pathway for experienced distributors to transition into the cannabis industry by permitting them to “also transport other unrelated non-Federally regulated goods or shipments in the delivery vehicle.” In addition, N.J.A.C. 17:30-9.15(n) contemplates licensed distributors delivering other non-Federally regulated goods along their route (that is, making additional stops to deliver those items while delivering cannabis products). The commenter recommends either removing N.J.A.C. 17:30-9.15(i)1, as this conflicting language is inconsistent with the emerging distribution industry and acts as an impediment for experienced distributors to service the cannabis industry, or recommends providing an exception at N.J.A.C. 17:30-9.15(i)1 for Class 4 cannabis distributor’s delivering non-Federally regulated goods pursuant to N.J.A.C. 17:30-9.15(n). (277)

166. COMMENT: One commenter suggests amending “N.J.A.C. 17:30-9.15(i) to align with new proposed N.J.A.C. 17:30-9.15(n).” The commenter suggests the following language at N.J.A.C. 17:30-9.15(i): “A cannabis business shall ensure that transports are completed in a timely and efficient manner. 1. The cannabis business staff member shall not deviate from the delivery path described in this subsection, except in the event of emergency, or as necessary, for rest, fuel, or vehicle repair stops, or because road conditions make continued use of the route or operation of the vehicle unsafe, impossible, or impracticable.” (83)

RESPONSE TO COMMENT 165 AND 166: Based on the regulatory language upon adoption, cannabis distributors are permitted to pick up and carry non-Federally regulated goods prior to engaging in the secure transport of cannabis. The distributor may then conduct a secure transport of cannabis, segregated from the non-Federally regulated goods, from start to finish. After the secure transport of cannabis is completed, the distributor may drop the other non-Federally regulated goods. Thus, no changes will be made upon adoption.

167. COMMENT: One commenter states that the “proposed change at N.J.A.C. 17:30-9.16(c)2 from reporting an adverse event within seven days to ‘48 hours’ is potentially problematic in view of weekends or holidays when key licensee personnel may not be reachable as quickly as during regular business hours, and leading to inadvertent violations if the due date falls on a weekend or holiday when CRC staff may or may not be on duty to receive same.” The commenter recommends “that the language be changed to ‘two business days’ rather than 48 hours to avoid these concerns.” (256)

RESPONSE: The public’s health and safety are of utmost importance to the Commission. Thus, it has determined that any adverse events must be reported within 48 hours. A cannabis business should report any adverse events to the Commission as soon as possible and believes 48 hours gives each business ample amount of time to report the adverse event.

Subchapter 10—Cannabis Cultivator Authorized Conduct

168. COMMENT: One commenter suggests amending N.J.A.C. 17:30-10.1(b), Cannabis cultivator premises. The commenter states that cannabis cultivators that transport their own product throughout the State should have the option to open storage/fulfillment locations across the State. The commenter suggests the following proposed amended regulation: “(b) A cannabis cultivator shall produce cannabis only at the cannabis business premises authorized in the license, including any indoor or outdoor areas. (1) All cannabis cultivation shall take place in an enclosed, locked area or facility, which includes, where a cannabis cultivator is engaging in outdoor cultivation, the outdoor grow area structures authorized pursuant to N.J.A.C. 17:30-10.3. (2) Access to such enclosed, locked area or facility shall be limited to an owner, principal,

employee, volunteer, of a license holder or the staff members of a license holder’s management services contractor that possesses a Cannabis Business Identification Card and are authorized by the cannabis business to access the facility. (3) Cannabis cultivators shall be able to establish satellite storage facilities that meet security requirements in accordance with N.J.A.C. 17:30-9.10 and accessibility requirements in accordance with N.J.A.C. 17:30-9.12. Cannabis cultivators can only use said facilities once it has been inspected and approved by the Commission.” (83)

RESPONSE: Cannabis wholesalers will be set up across the State to purchase and store finished cannabis from cultivators. Cannabis cultivators have the ability to store their finished cannabis on their premises and to sell it to another cannabis business if they do not have the capacity to store it. Thus, no changes will be made upon adoption in response to the comment.

169. COMMENT: One commenter states that proposed N.J.A.C. 17:30-16.1(f)1, Processing of cannabis items; release for distribution, “allows for the processing of unusable cannabis in order to render it usable.” However, the commenter suggests “this is in conflict with N.J.A.C. 17:30-10.2(c)—Cannabis cultivator authorized conduct; prohibitions—which states that “Where a cannabis cultivator sells unusable cannabis to other cannabis cultivators or to cannabis manufacturers for the purposes of manufacturing, the cannabis cultivator shall ensure such unusable cannabis does not have any mold, rot, or disease, and that it meets specifications in quality control testing.” The commenter states that “because the existence of mold renders cannabis unusable, and extraction processing cannabis is a method of remediating certain undesirable conditions, a cultivator should, as recognized by N.J.A.C. 17:30-16.1, be permitted to convey unusable cannabis to a processor who will remediate same.” The commenter “recommends these sections be harmonized to permit otherwise unusable cannabis to be remediated through a licensed third-party processor who would then be responsible for retesting to ensure the products may then be offered to the public.” (256).

RESPONSE: The Commission is modifying N.J.A.C. 17:30-10.2(c) upon adoption in response to the comment for clarity.

170. COMMENT: Several commenters state “The electricity used by, and CO2 emitted by cannabis cultivation facilities is at a problematic level. The rulemaking should require cultivation facilities to use 100 percent renewable energy or to purchase carbon offsets. Cultivation facilities have resulted in extensive environment problems in other states.” (51, 62, 155, 308, 335, and 336)

RESPONSE: As a requirement of licensure, cannabis business are required to submit an environmental impact plan, which shall include “plans to mitigate any negative impacts on the environment produced by the proposed cannabis business including but not limited to: sustainable packaging plans; plans to reduce exposure to volatile organic compounds for employees; renewable energy plans, especially for indoor cultivators; emission reduction plans and water conservation and purification plans.” Additionally, all cannabis businesses are required to comply with all State laws and rules, including any emissions regulations promulgated by the Department of Environmental Protection.

171. COMMENT: One commenter requests that N.J.A.C. 17:30-10.9 be amended “to comply with Maryland’s rules, especially given that New Jersey’s cannabis testing rules also adopt and incorporate by reference Maryland’s rules and the types of pesticides identified thereunder.” (223)

RESPONSE: The Commission has its own cannabis testing rules, independent and separate from Maryland’s testing rules, and similarly has its own pesticide rules pursuant to N.J.A.C. 17:30-19.

Subchapter 11—Cannabis Manufacturer-Authorized Conduct

172. COMMENT: One commenter states that due “to the large amount of product representative samples pursuant to N.J.A.C. 17:30-9.3(b) combined with the limitations of the 2,500 square foot maximum space allowed for a microbusiness, a microbusiness shall be allowed to expand to 3,000 square feet.” The commenter suggests amending N.J.A.C. 17:30-11.1(e) from 2,500 square feet to 3,000 square feet (61)

RESPONSE: The CREAMM Act, at N.J.S.A. 24:6I-33, states that a microbusiness, “with respect to its business operations, and capacity” may only “operate a cannabis establishment occupying an area of no more than

2,500 square feet.” Thus, N.J.A.C. 17:30-11.1(e) must limit a microbusiness manufacturer to 2,500 square feet of its physical plant.

173. COMMENT: One commenter states that “The CRC should incentivize manufacturers to produce extract that can be sold to microbusinesses to be used in edible products. Many business that are interested in joining the cannabis space, and may qualify for a microbusiness permit, likely will not have the financial means, knowledge, or experience to produce extracts. Extracts are needed to make many forms of edibles, including chocolate and baked goods.” The commenter suggests that “To promote participation in the microbusiness industry, the CRC should incentivize large scale manufacturers to sell cannabis extract to microbusiness manufacturers.” The commenter concludes that “The CRC should require an applicant applying for a Class 2 Manufacturer license to include a plan that it will use best efforts to sell cannabis extract to microbusiness manufacturers and include additional bonus points to the extent the applicant applying for the Class 2 Manufacturer license will certify that it will sell a certain percentage of its cannabis extract to microbusiness manufacturers.” (61)

RESPONSE: Pursuant to the Commission’s rules, standard cannabis manufacturers may sell their cannabis extracts to microbusiness cannabis manufacturers. Thus, no changes are necessary upon adoption in response to the comment.

Edibles, Beverages, and Other Product Types

174. COMMENT: Several commenters requested that the CRC authorize additional edible forms, such as chocolate or baked goods. (55, 74, 93, 107, 130, 136, 137, 249, and 329)

175. COMMENT: Two commenters state, the CRC should not allow any edibles at N.J.A.C. 17:30-11.5(c)2. (214 and 301)

RESPONSE TO COMMENTS 174 AND 175: N.J.A.C. 17:30-11.5(c)3 provides the Commission the power to authorize additional forms, including edibles. The Commission continues to research and consider the authorization of additional edible forms in the future.

176. COMMENT: One commenter states that “N.J.A.C. 17:30-11.5(c)2iii, Buccal, and iv, Chewable, both of these appear to be edibles yet there is no definition provided at N.J.A.C. 17:30-1.2 making the issue unclear.” The commenter cites to: www.verilife.com/blog/guide-marijuana-edibles. (214)

177. COMMENT: One commenter suggests amending N.J.A.C. 17:30-11.5(c)2 to include “cannabis beverages” under an authorized form at N.J.A.C. 17:30-11.5(c)2iv. The commenter states that “over a dozen states with recreational cannabis programs allow cannabis beverage as a permitted form factor, including Arizona, California, Connecticut, Colorado, Illinois, Massachusetts, Maine, New York, Nevada Oregon, and Washington.” The commenter also suggests creating a definition for both a “single-serving cannabis beverage product” and a “Multiple-serving cannabis beverage product.” Finally, the commenter suggests adding requirements prohibiting cannabis manufacturers from labeling cannabis beverages with language or graphics suggestive of alcohol infusions. (219)

178. COMMENT: One commenter strongly encourages the Commission to consider revising N.J.A.C. 17:30-11.5(c)2iv to also add infused beverages to permitted ingestible forms. The commenter states that infused beverages is a significant and growing category in other legal states, poses no increased risk to underage consumption over other permitted forms, and would further distinguish what is available in the legal market from the illicit market. (106)

179. COMMENT: One commenter states that cannabis beverages should be an approved product form. The commenter notes that “the cannabis beverage market is reported to have increased by more than 20 percent in the last two years alone, with at least one cannabis executive identifying his belief that cannabis beverages will eventually represent up to 50 percent of the industry.” (223)

RESPONSE TO COMMENTS 176, 177, 178, AND 179: N.J.A.C. 17:30-11.5(c)2iii and iv state: “Oral lozenges and other buccal forms” and “ingestible forms, which shall only include syrups, pills, tablets, capsules, oral suspensions, and chewable forms” are all ingestible products. As stated in the response to prior comments, the Commission continues to research and consider the authorization of additional edible forms,

including food and beverage forms, and if deemed appropriate, will do so in the future.

180. COMMENT: One commenter states “After review I do not see edibles at N.J.A.C. 17:30-11.5. However, we are still seeing clients who are conditionally approved by the CRC with business plans that include edibles under their intended products and services. Do you issue conditional licenses to businesses under the pretense that they omit certain planned operational aspects of their business plan (that is, sales of edibles?” (53)

RESPONSE: The Commission welcomes license applications that include plans for future product expansion. The Commission continues to research and consider the authorization of additional edible forms.

181. COMMENT: One commenter suggests additional language at N.J.A.C. 17:30-11.4, Quality control. The commenter suggests that the Commission should “immediately pursue the allowance, regulation, and sale of ... ingestible items into both the medical and recreational New Jersey markets. If the Commission chooses to do so, the commenter further suggests amending N.J.A.C. 17:30-11.4 to include that any Class 2 Manufacturer of “ingestibles to be a GMP Good Manufacturing Practice certified manufacturer.” The commenter suggests language to this effect. (61)

RESPONSE: As stated in the responses to prior comments, the Commission continues to research and consider the authorization of additional edible forms, including food and beverage forms. If the Commission decides to authorize edible forms in the future, it will consider adding additional requirements as the commenter suggests, but at the current time, no change is needed.

182. COMMENT: One commenter states that there “should be allowances for ‘hybrid’ manufactured, infused, and blended products, including: different flower strains in one package of pre-rolls, rosin, kief, hash infused within pre-rolls. Pre-rolls coated in distillate and rolled in kief, ‘moonrock’ or ‘honeybud’ flower offerings, that is, flower dipped in oil (distillate, rosin, or CO2) and coated in kief.” The commenter states that these products are “safe, tested, packaged, and labeled, combinations of otherwise approved product offerings should be made available to both patients and consumers.” (223)

RESPONSE: Pre-rolls of different flower strains in one package are currently allowed, as long as the package includes the required information about each of the clearly demarcated pre-rolls. Regarding all other product forms, the Commission has the authority to authorize any other form and may consider doing so in the future, if deemed appropriate or necessary.

183. COMMENT: One commenter suggests adding to “ingestible forms” at N.J.A.C. 17:30-11.5(c)2iv. The commenter suggests the following language: “Fruit and vegetable flavors should not be limited subject to N.J.A.C. 17:30-11.5(d)4.” (61).

RESPONSE: The Commission is modifying N.J.A.C. 17:30-11.5(d)4 upon adoption in response to the comment, to allow flavored products.

Other Manufacturing Conduct

184. COMMENT: One commenter asks, regarding N.J.A.C. 17:30-11.5, Prohibited manufacturing; authorized forms; authorized amounts, how the Commission is “converting 7.09 grams of cannabis flower into oil in a vaporized formulation.” The commenter further asks “Is that the amount of oil produced by extracting 7.09 grams? If so, that is variable as every single batch will have a different yield, and so it cannot be used as a standardized measure of dosage. As that is the case, what standard is the CRC using for their conversion of flower dosage into oil? At N.J.A.C. 17:30-14.3, Cannabis retailer sale to a consumer, it says a cannabis retailer cannot sell more than ‘five mL of liquid cannabis concentrate (oil)’ in a single transaction, is that the oil equivalent to 7.09 grams of flower?” (234)

RESPONSE: The commenter should use the equivalency standard at N.J.A.C. 17:30-14.3(d) in addition to N.J.A.C. 17:30-11.5(d)1. Additionally, the Commission is modifying N.J.A.C. 17:30-14.3(d)2 and 3 and 17:30-15.2(d)2 and 3 to correct the error stating “five” grams to “four” grams. For the purposes of Subchapters 11, 14, and 15, 28.35 grams of usable cannabis = four grams of solid concentrate = four mL of oil = 1,000 mg of THC in a cannabis-infused product. Thus, vaporized formulation containing one mL of oil would be equivalent to 7.09 grams

of usable cannabis for the purposes of this chapter. The Commission also provides guidance on its website for individuals who have questions regarding equivalency at <https://www.nj.gov/cannabis/adult-personal/index.shtml>.

185. COMMENT: Several commenters state that at N.J.A.C. 17:30-11.5(d)2 and 3, 100 mg of THC in a finished product package is “too much THC,” and 10 mg of THC in each single serving is “too much THC.” (25, 60, 162, 189, 199, 214, 274, 301, and 307)

RESPONSE: The CREAMM Act, at N.J.S.A. 24:6I-35, provides “a standardized serving of a cannabis product shall be no more than 10 milligrams of active THC and no individual edible cannabis product for sale shall contain more than 100 milligrams of active THC.” Thus, the Commission has the statutory authority to impose these limitations.

186. COMMENT: One commenter states that the “accuracy of cannabinoid labeling should be amended from a 10 percent margin of error to a 20 percent margin of error,” which would “parallel requirements for similar products set by the FDA.” The commenter further states that New York “has revised the regulation to allow for a 20 percent margin of error between the concentration of cannabinoids on a cannabinoid hemp product’s label and the third-party laboratory test results for such product.” The commenter suggests amending N.J.A.C. 17:30-11.5(d)3i to reflect a 20 percent margin of error. (61)

187. COMMENT: One commenter recommends increasing the labeling variance at N.J.A.C. 17:30-11.5(d)3i “even further to 20 percent for low-dose products (\leq 25mg).” The commenter states that “similar guidance issued by the FDA on nutraceutical products has 20 percent acceptable variability for active ingredients.” Additionally, the commenter states that “in comparison to other state guidelines, the New York Cannabis Hemp Program (NYCHP) has made a similar adjustment from 10 percent to 20 percent acceptable variance based on FDA guidelines.” The commenter suggests amending N.J.A.C. 17:30-11.5(d)3i to the following: “Each single serving of a cannabis product shall have a cannabinoid concentration that is within 80 to 120 percent of the specified milligram serving size claimed for that cannabis product. Each multi-serving cannabis product manufactured to contain greater than 25mg of active THC shall have a cannabinoid concentration that is within 90 to 110 percent of the specified milligram serving size claimed for that cannabis product.” (299)

188. COMMENT: One commenter states that “Low-dose products should allow for a higher labeling variance of 20 percent.” The commenter further states that “Guidance issued by the FDA for similar product types has 20 percent acceptable variability for active ingredients, and many other state cannabis guidelines use an acceptable labeling variance of 20 percent.” (181)

189. COMMENT: One commenter states that N.J.A.C. 17:30-11.5(d)3i, Single serving cannabinoid concentration range, should not be expanded. (214)

190. COMMENT: One commenter states that regarding the concentration variance at N.J.A.C. 17:30-11.5(d)3i, “the CRC increased the acceptable range of variance to 10 percent.” The commenter states that “this is acceptable as it is based on the FDA acceptable range around potency of traditional manufactured pharmaceutical products.” (35)

RESPONSE TO COMMENTS 186, 187, 188, 189, AND 190: N.J.A.C. 17:30-11.5(d)3i (as proposed) increased the labeling variance from five percent to 10 percent, which strikes a balance that maintains consumer safety and the predictability and consistency of cannabis product dosing while also taking into account the consensus, including the Federal Drug Administration (FDA) laws, around the harm associated with a minimal variance of measurement. The Commission is maintaining the language at N.J.A.C. 17:30-11.5(d)3i upon adoption but will continue to research and monitor this issue, and if a change is appropriate in the future, will propose the same.

191. COMMENT: One commenter requests that, regarding the production and sale of hemp-derived tetrahydrocannabinols, to allow cannabis manufacturers to do the following: “Cannabis manufacturers may, to the extent permitted and licensed by the Hemp Program, obtain hemp for use in manufacturing, preparing, and packaging hemp-derived tetrahydrocannabinol products (that is, delta-8-THC, delta-10-THC, etc., (Hemp THC)) and just as with ‘cannabis’ pursuant to the CREAMM Act,

sell, and optionally, transport those Hemp THC products to other cannabis manufacturers, cannabis wholesalers, or cannabis retailers.” (61)

RESPONSE: The CREAMM Act in its definition of “cannabis” specifically excludes hemp or a hemp product cultivated, handled, processed, transported, or sold pursuant to the New Jersey Hemp Farming Act. Additionally, because the hemp licensing program is under the purview of the New Jersey Department of Agriculture, the Commission has determined to keep the sales of cannabis and hemp separate. Thus, no changes will be made upon adoption in response to the comment. It should be noted, however, that hemp-derived terpenes are permissible, as they are included in “botanically-derived terpenes” at N.J.A.C. 17:30-11.6(d)1ii(3)(i). Moreover, the New Jersey Department of Agriculture bans New Jersey licensed hemp producers from producing delta-8-tetrahydrocannabinol, delta-10-tetrahydrocannabinol, and all forms of synthetic cannabinoids.

192. COMMENT: One commenter suggests amending N.J.A.C. 17:30-11.6, Ingredients in cannabis products, to include “FDA approved” Generally Recognized as Safe (GRAS) items. The commenter suggests adding the following language at N.J.A.C. 17:30-11.6(b): “All ingredients used to manufacture cannabis products shall be United States Pharmacopeia-National Formulary (USP-NF), analytical reagent (AR), certified American Chemical Society (ACS), Food Chemicals Codex (FCC) grade substances or Generally Recognized as Safe under sections 201(s) and 409 of the Federal Food, Drug and Cosmetic Act (GRAS) grade substances.” (61)

RESPONSE: If the Commission decides to authorize additional edible and food beverage forms in the future, it may consider allowing for ingredients that the FDA designates as Generally Recognized as Safe (GRAS) to be included for these ingestible forms.

193. COMMENT: One commenter suggests amending N.J.A.C. 17:30-11.6(f) “to permit ingredients that have the GRAS designation, as well as hemp-derived ingredients like terpenes.” The commenter states that “both cannabis-derived and botanically-derived terpenes are already permissible in cannabis products intended for inhalation and vaporized formulations.” The commenter reasons that “limiting inactive ingredients for ingestible cannabis products to those listed as an allowable ingredient in products using the Oral, Buccal, or Sublingual Routes of Administration in the Food and Drug Administration Inactive Ingredients Database, as stipulated at N.J.A.C. 17:30-11.6(f), hampers consumer choice and product development, especially for beverages.” (219)

RESPONSE: Hemp-derived terpenes are permissible, within the limit, as they are included in “botanically-derived terpenes” at N.J.A.C. 17:30-11.6(d)1ii(3)(i). If the Commission decides to authorize additional edible and food beverage forms in the future, it may actively allow for ingredients that the FDA designates as Generally Recognized as Safe (GRAS) to be included for these ingestible forms.

194. COMMENT: One commenter suggests amending N.J.A.C. 17:30-11.6(f) to include the following language: “Any inactive ingredient used in an ingestible cannabis product must be listed as an allowable ingredient in products using the Oral, Buccal, or Sublingual Routes of Administration, as applicable, in the Food and Drug Administration Inactive Ingredients Database and must be used in an amount less than or equal to the ‘maximum potency amount per unit dose’ allowed for the ingredient.” Although unclear, it appears the commenter suggests that the additional language is necessary because the language proposed by the Commission is in error. (61)

RESPONSE: The Commission is modifying N.J.A.C. 17:30-11.6(f) upon adoption in response to the comment.

195. COMMENT: One commenter states that—“it is my belief that the goal of N.J.A.C. 17:30-11.7, Cannabis electronic smoking devices (ESD), on the material components that make up vaporizers is to regulate consumer’s exposure to inhaling the heavy metals and chemicals listed at N.J.A.C. 17:30-11.7.” The commenters states “Those regulated heavy metals and chemicals at N.J.A.C. 17:30-11.7 are cadmium, lead, mercury, hexavalent chromium, polybrominated biphenyls, polybrominated diphenyl ether, bis(2-ethylhexyl) phthalate, butyl benzyl phthalate, dibutyl phthalate, or diisobutyl phthalate.” The commenter suggests that “Perhaps a better method of controlling consumer’s exposure to inhaling heavy metals is to actually require the testing of the aerosol vapor coming out of an ESD, rather than the oil going into it. That is because no one eats

the oil, they vape it, so an accurate test would vape the oil and test that vapor, rather than the liquid oil. You can look at the language in Colorado's regulations on vaporizer aerosol testing for an example of what you should do in New Jersey." The commenter argues that "This is advantageous for two main reasons, first, what you want to test to protect consumers is the vapor they are inhaling not the product itself or liquid oil, and second, unless New Jersey similarly regulates the material components of e-cigarettes, regulating just the material components of cannabis vaporizers would open you up to lawsuits. Lawsuits are costly and they slow everything down, hurting consumers, businesses, and the State itself; they are to be avoided at all costs." The commenter concludes "So rather than rely on a difficult to enforce provision that attempts to regulate how devices are constructed, you should opt for the cheaper and simpler solution of aerosol testing ESDs." (234)

RESPONSE: The Commission has the authority to regulate the material components of electronic smoking devices that are used to aerosolize vaporized formulations. The language at N.J.A.C. 17:30-11.7 protects consumer safety by seeking to prevent leakage of dangerous metals into the inhaled vaporized formulation. The Commission will continue to research and consider adding aerosol testing to future rules or the Testing Guidance.

196. COMMENT: One commenter requests that N.J.A.C. 17:30-11.8(a), Expiration dating, should be revised. The commenter states that "Expiration dates are typically based on the completion of the manufacturing and packaging. In the case of usable cannabis, this would equate to the completion of harvesting, drying, curing, and packaging, not the date the cultivation began." (35)

RESPONSE: The language at N.J.A.C. 17:30-11.8(a), which states "the date the usable cannabis is cultivated," refers to the date, post-curing, when the cannabis cultivation is complete, and the usable cannabis is in its final form, ready for distribution. Thus, the expiration date is cultivated from that date.

197. COMMENT: One commenter suggests that in reference to the proposed regulation, N.J.A.C. 17:30-11.8(c)2, pertaining to expiration dates, the CRC should "update the expiration starting date to not earlier than 'date tested' instead of manufacture or cultivated date because that would be when the product is in its final form." The commenter suggests the following language at N.J.A.C. 17:30-11.8(c)2: "For all other formulations and for usable cannabis, the expiration date shall not be later than six months from the testing date." (83)

RESPONSE: The product will be in its final form on its manufacture or cultivation date, which occurs before it is sent to the testing laboratory to be tested. The date from which the expiration date should be calculated is the manufacture or cultivation date, since that is the date the product begins to degrade.

Subchapter 12—Cannabis Wholesaler—Authorized Conduct and Subchapter 13—Cannabis Distributor—Authorized Conduct

198. COMMENT: One commenter agrees with N.J.A.C. 17:30-12 and 13 in their entirety, as proposed. (48)

199. COMMENT: One commenter states that "LeafLink, founded in 2016, is a non-plant touching cannabis technology company that manages \$5 billion in annual orders across its business-to-business platform. LeafLink facilitates 42 percent of regulated wholesale cannabis transactions in the United States, and connects over 11,000 licensed cannabis cultivators, processors, distributors, wholesalers, and retailers across 27 states and territories." The commenter states that the company's "mission is to provide licensed cannabis businesses of all sizes with the tools they need to manage their businesses more effectively and to accelerate their growth," and "work to create the healthiest possible cannabis industry, one that is defined by efficiency, transparency, choice, and equity. Our services help licensees save labor, time, and communication costs, enabling them to enter the market and compete more efficiently and rapidly." The commenter greatly appreciates "the thoughtful efforts the Commission is putting into ensuring New Jersey has an efficient cannabis program that puts consumers and safe regulations first," and strongly supports "the proposed regulations for wholesale and distribution, and believe the New Jersey market will greatly benefit from the Commission's implementation of the regulations." The commenter believes that "These are integral parts of all other supply chains and retail

markets and are necessary for any cannabis market to properly grow and mature. Creating independent wholesale and distributor licenses is one of the major ways that regulators can help promote social equity businesses, microbusiness, and small operators. Working with wholesalers and distributors allows businesses at all levels of the supply chain to focus on what they do best. It simplifies operations, lowers costs, and helps avoid problems such as stockouts and market inaccessibility by smaller producers. Equity is increased when there are numerous participants in the market and low barriers to entry." In some markets with a limited number of independent wholesalers and distributors or with none at all, well-capitalized companies can monopolize the market, frequently blocking out equity participants and other smaller operators. The commenter believes that "the Commission's proposed regulations positively align with LeafLink's core value of advancing an efficient, safe, and equitable cannabis industry and will help New Jersey businesses and consumers. The ability to hold both a wholesaler and a distributor license, as allowed in the proposed regulations, creates a more functional market and supply chain by allowing those with expertise to scale their knowledge. Both licenses require expertise in overlapping functions such as logistics, transportation, and storage. When wholesaler and distributor licensees are allowed to scale and streamline operations, business-to-business costs decrease, consumer experience improves, and the cannabis supply in the state is more reliable and affordable." (280)

RESPONSE TO COMMENTS 198 AND 199: The Commission acknowledges the commenters' support for the rules at N.J.A.C. 17:30-12 and 13.

200. COMMENT: One commenter states that at N.J.A.C. 17:30-12.2(d), 1,000 pounds of cannabis per month for a microbusiness "is too much." (214)

RESPONSE: The CREAMM Act, at N.J.S.A. 24:6I-36.f(2)(c)(v), "in the case of a cannabis wholesaler, acquire for resale no more than 1,000 pounds of usable cannabis, or the equivalent amount in any form of manufactured cannabis product or cannabis resin, or any combination thereof, each month." Thus, the Commission has the statutory authority to impose this limitation.

Subchapter 14—Cannabis Retailer—Authorized Conduct

201. COMMENT: One commenter asks for clarification regarding N.J.A.C. 17:30-14.1(b), which states "A cannabis retailer shall sell cannabis, only at the cannabis business premises authorized in the license, including any indoor or outdoor areas, including as provided at N.J.A.C. 17:30-14.4. A purchase made through the Internet website of a cannabis retailer shall be considered to have been conducted at the cannabis retailer's premises." The commenter asks, "Is a retailer, whose business is online delivery, required to maintain hours for retailer business premises for store front sales?" (13)

RESPONSE: Pursuant to the rules, a Class 5 cannabis retailer is required to maintain a cannabis retailer premises, which is a brick-and-mortar location identified on the cannabis retailer's license. Whether the cannabis retailer decides to mainly conduct home deliveries from that location is business decision. However, it should be noted that all cannabis retailers must comply with all of the Commission's rules and municipal ordinances, including any laws regarding hours of operation.

202. COMMENT: One commenter suggests adding additional language at N.J.A.C. 17:30-14.2 "to encourage purchases only from Class 2 authorized manufacturers." The commenter suggests adding the following language at N.J.A.C. 17:30-14.2(b): "A cannabis retailer shall not be authorized to: 1. Cultivate cannabis; 2. Produce, manufacture, or otherwise create cannabis products; 3. Purchase or sell any cannabis derived products THC, Delta 8, CBD, CBN, etc. that are not manufactured in the State of New Jersey by an authorized Class 2 cannabis manufacturer; or 4. Purchase or sell any cannabis products under any name/brand that isn't specifically licensed to operate in the State by the Cannabis Regulatory Commission." (61)

RESPONSE: N.J.A.C. 17:30-14.2(a) sufficiently includes the suggested limitations, as a cannabis retailer may only acquire cannabis items from other CRC-licensed cannabis businesses in a closed system. Thus, the Commission has determined the additional suggested language is not necessary.

203. COMMENT: One commenter states “the dispensaries should be encouraged to develop free support groups that can have regular meetings with their patrons and people who seek some guidance on using cannabis. There are many topics that can be very helpful for people seeking guidance on issues like tolerance building, withdrawal, safety, how to talk to your doctors, the stigma factor, etc.” (208)

RESPONSE: The Commission does not require Class 5 cannabis retailers to develop support groups. It should be noted, however, that the Commission proposed N.J.A.C. 17:30-14.3(i) to require a cannabis retailer to provide information on the safe use of cannabis items to consumers, which may address the commenters concerns regarding people who seek guidance on using cannabis. Additionally, Class 5 retailers may provide information on support groups on their own accord, without the need for more regulations.

204. COMMENT: One commenter proposes amending the language regarding single sale transaction limits as it relates to conversions between and among cannabis and cannabis products, at N.J.A.C. 17:30-14.3(d). The commenter understands that while “conversion rates identified in the medical cannabis product equate to one gram of concentrate being the equivalent to 3.5 grams of flower, the rules themselves fail to identify how to remain compliant when selling cannabis, cannabis products, and concentrate.” The commenter asks “Does the Class 5 Retailer simply use the raw amount being purchased in determining the purchase limit, or the equivalency? Assuming it is the former, rather than the latter, the commenter proposes that the regulation be amended to reflect any clarity.” (223)

205. COMMENT: One commenter states that N.J.A.C. 17:30-14.3(d)5 has been amended to limit single transactions to no more than 28.35 grams (one ounce), or the equivalent, or some combination of usable cannabis and cannabis products. The commenter seeks clarity on how one would calculate a combined transaction involving usable cannabis, concentrates, and edible formulations. The commenter provides examples of other states, such as in Pennsylvania, regulators created a “medical marijuana unit” equal to 3.5 grams of usable cannabis, one gram of concentrate or oil, and 100 mg in an infused edible, and then placed a limit on the number of “units” permitted. (222)

RESPONSE TO COMMENTS 204 AND 205: N.J.A.C. 17:30-14.3(d) clearly provides purchase limits for each of the types of products stated by the commenters. When calculating the purchase limit for a combination purchase of multiple types of products, 28.35 grams of usable cannabis = four grams of solid concentrate = four mL of oil = 1,000 mg of THC in a cannabis-infused product. The total of the purchase may not exceed the equivalent of 28.35 grams of usable cannabis. For example, a consumer could purchase 7.09 grams of usable cannabis, one gram of solid cannabis concentrate, vaporized formulation containing one mL of oil, and cannabis-infused products containing an aggregate of 250 mg of THC, or any other configuration of products totaling the equivalent of 28.35 grams of usable cannabis. The Commission also provides guidance on its website for individuals who have questions regarding equivalency at <https://www.nj.gov/cannabis/adult-personal/index.shtml>.

206. COMMENT: One commenter respectfully requests the language “within one day” be added at N.J.A.C. 17:30-14.3(e) to clarify that consumers are limited to purchasing up to one ounce of cannabis per day. The commenter states that the regulations “do not specify the duration within which a consumer is limited to purchasing the prescribed purchase limits.” The commenter states that “a period of time should be included to avoid the implication that a customer is limited to a one ounce lifetime cap.” (197)

RESPONSE: The CREAMM Act, at N.J.S.A. 2C:35-10a, limits possession to one ounce (28.35 grams) of cannabis and does not impose a time duration. Thus, the Commission has determined that the purchase limitations at N.J.A.C. 17:30-14.3(d) sufficiently comply with the CREAMM Act. Additionally, cannabis retailers are required to prevent consumers from purchasing more than one ounce of usable cannabis during a sales transaction.

207. COMMENT: One commenter states that the CRC has included a new requirement at N.J.A.C. 17:30-14.3(i) that states “A cannabis retailer shall provide information of cannabis items to consumers prior to each purchase, such as the information on Safe and Responsible Consumption provided on the Commission website.” The commenter states that he

supports “making such guidance available to all consumers as consumers may be new to using cannabis and we share your goal of preventing users from experiencing adverse effects or the problematic use of our products.” The commenter seeks “clarity on whether the intention of the CRC is to include the education materials in each exit bag.” The commenter states that such “a requirement would consume a lot of paper in an industry that is trying to be environmentally friendly and for a consumer base that is mostly repeat customers.” The commenter further states that such “a requirement would also add to fiscal burdens many smaller businesses struggle to handle when businesses in this industry can’t write off these costs as normal business expenses on their Federal taxes.” The commenter suggests using other states as a guide and states the trend he sees “in other high-volume adult use states is to require dispensary to ‘make available’ or ‘offer’ educational materials at the dispensary rather than provide it with every transaction.” (222)

208. COMMENT: One commenter states that, in regard to N.J.A.C. 17:30-14.3(i), pertaining to information on the safe use of cannabis, “it is currently unclear exactly how the Commission desires the information to be provided.” The commenter asks whether staff be expected to verbally recite the information to customers, and whether a link to the Commission’s guidance on a consumer receipt is adequate. The commenter asks the Commission’s preferred methods for providing this information. (217)

209. COMMENT: One commenter states that at proposed N.J.A.C. 17:30-14.3(i) and 15.2(i), there is a new requirement for the cannabis retailer to provide certain information prior to each purchase: “(i) A cannabis retailer shall provide information on the safe use of cannabis items to consumers, such as the information on Safe and Responsible Consumption provided on the Commission website.” The commenter recommends “that a licensee be deemed to have provided that information if the licensee has printed material, such as a brochure, located at the point-of-sale. That would allow the licensee to provide the information in a way that is not overly burdensome or wasteful of printed materials. (256)

RESPONSE TO COMMENTS 207, 208, AND 209: The Commission is modifying N.J.A.C. 17:30-14.3(i) and 15.2(i) upon adoption in response to the comments.

210. COMMENT: One commenter states that at N.J.A.C. 17:30-14.4, the CRC should not allow curbside or walk-up window sales. (214)

RESPONSE: The Commission has determined that curbside retail sales maintain safety, protecting the health of the immunocompromised, while preserving access for all consumers. Thus, no changes will be made upon adoption.

211. COMMENT: One commenter states “Lantern is an ancillary (non-plant touching) website platform that contracts with State-licensed cannabis businesses to facilitate orders for the home-delivery of cannabis. Lantern does not control or influence the ‘physical acts’ or operations in ‘connection with fulfilling the order and delivery’ and only serves as a technology service to licensees as another avenue to reach customers.” The commenter states that “the proposed regulatory language regarding home delivery of cannabis does not appear to contemplate licensed retailers, or delivery services, from accepting orders for delivery from an ancillary third-party technology provider such as Lantern.” The commenter respectfully proposes either: “1. A CRC-clarification that the proposed regulation’s references to ‘its internet website’ include an ancillary third-party technology provider; or 2. A clarifying revision to the proposed regulation, as follows: N.J.A.C. 17:30-14.8: Home delivery, paragraph (b)1, Cannabis retailers or cannabis delivery services may engage in delivery in any region and may institute geographic and hourly restrictions on where and when they opt to deliver to consumers. As paragraph (b)2, Any such restrictions shall be reported to the Commission.” (172)

RESPONSE: The CREAMM Act, at N.J.S.A. 24:6I-44, states that the Commission may authorize the use of an Internet-based web service developed and maintained by an independent third-party entity that does not hold any license or certificate issued pursuant to P.L. 2021, c. 16 (N.J.S.A. 24:6I-31 et seq.), and is not a significantly involved person or other investor in any licensee, which may be used by cannabis retailers to receive, process, and fulfill orders by consumers, or used by consumers to request or schedule deliveries of cannabis items pursuant to subsection j. of the public base. The Commission has determined that a revision is

unnecessary. However, the references at N.J.A.C. 17:30-14.8, regarding a “delivery services internet website” includes an independent third-party technology that does not hold any license or certificate technology provider.

212. COMMENT: Regarding N.J.A.C. 17:30-14.8(o)4, pertaining to consumer’s delivery order made available, one commenter “adamantly disagrees with the Commission’s proposal to explicitly require that a member of delivery staff provide a copy of a consumer’s delivery order to State and local law enforcement simply “upon request.” While the commenter understands “such records should be made available to the Commission as a regulatory body, prescribing in the proposed rules that law enforcement has an undisturbed right to obtain a consumer’s personal records in all circumstances, simply upon law enforcement’s request, seems to violate consumers’ expectations of privacy in a market where cannabis is legalized at the State level.” Disputes around Federal crimes aside, the commenter encourages “the Commission to reconsider this change as drafted and continue its great effort of normalizing cannabis.” (217)

RESPONSE: The consumer delivery request is the legal protection for cannabis business delivery personnel, to demonstrate to a member of law enforcement that they are rightfully possessing and transporting the cannabis items.

213. COMMENT: One commenter states that the “CRC has capped the delivery fee at 10 percent of the pre-tax total for an order at N.J.A.C. 17:30-14.8(v).” The commenter states they are concerned “that this could do more harm than good” and elaborates that “it would not be financially viable to provide deliveries on low-dollar purchases.” The commenter provides an example of a consumer at home, “who wanted a single pre-roll, which retails for about \$12.” The commenter states that the “business could only set a delivery fee of \$1.20, which would not cover the cost of the actual delivery.” As such, the commenter states that “businesses will begin to set minimum delivery order amounts of roughly \$50.00 to ensure the cost of the delivery can be covered by the delivery fee,” which “puts the home consumer in the position of being coerced into purchasing more cannabis than they need.” The commenter suggests “capping delivery fee amounts at \$5.00 or 10 percent of the pre-tax total for an order, whichever is more.” (222)

214. COMMENT: “In reference to proposed regulation—N.J.A.C. 17:30-14.8(v), pertaining to home delivery, let the market dictate the delivery fee, remove the 10 percent delivery fee cap. Please see below correction to proposed regulation: (v) A cannabis retailer or cannabis delivery service may charge a delivery fee.” (83)

215. COMMENT: One commenter states that regarding the capped delivery fees not to exceed 10 percent at N.J.A.C. 17:30-14.8(v), “This could be a burden on license holders such as micro-businesses, social equity, minority and veteran-owned businesses, if one order doesn’t cover the delivery cost. Businesses could end up requiring a consumer reach a minimum amount in order to deliver product.” (35)

RESPONSE TO COMMENTS 213, 214, AND 215: The Commission agrees with the commenters that the delivery fee cap could be a burden on license holders. However, this is not a change that can be made upon adoption pursuant to the APA, but the Commission will propose removing the delivery fee cap in a future rulemaking.

Subchapter 15—Delivery Services

216. COMMENT: One commenter respectfully requests the Commission include “language that specifically allows cannabis delivery services to fulfill newly placed orders after a driver has been dispatched from surplus inventory stored in the vehicle” at N.J.A.C. 17:30-14.8(c). Additionally, the commenter requests “language that specifically permits online orders for home delivery to be placed through a third-party platform working in conjunction with the cannabis retailer or cannabis delivery service.” The commenter reasons that “cannabis delivery services operating under a courier model are faced with a tough path to profitability and in other markets, such as Massachusetts, many operators are struggling to stay afloat simply on the delivery fees generated.” The commenter states that “until a legislative change is implemented to allow cannabis delivery operators to conduct sales directly to consumers, it is vital that cannabis delivery services are given the flexibility to fulfill new orders from additional inventory stored in the vehicle while they have

already been dispatched.” Additionally, the commenter states that the regulation “should clarify that a cannabis retailer or cannabis delivery service may accept orders through an online third-party platform as this is an important resource for these cannabis businesses to reach as many consumers as possible.” (197)

217. COMMENT: One commenter requests, regarding N.J.A.C. 17:30-15.1(a)1, pertaining to cannabis delivery service authorized conduct, to “allow delivery services to fulfill through any licensed cannabis business, not just retailers.” The commenter suggests the following language at N.J.A.C. 17:30-15.1(a)1, “A cannabis delivery service holding a Class 6 Cannabis Delivery Service license issued by the Commission shall be authorized to: 1. After receiving a purchase order from a consumer or a licensed cannabis business, obtain cannabis items, cannabis paraphernalia, and related supplies from such licensed cannabis business;” (83)

RESPONSE TO COMMENTS 216 AND 217: Cannabis delivery services are not allowed to immediately fulfill orders from surplus inventory in their vehicle, and instead must base their possession of cannabis items in the vehicle on previously placed orders from retailers (N.J.S.A. 24:61-43). Regarding the commenter’s question on the “online third-party platform,” as mentioned in the response to prior comments, the references at N.J.A.C. 17:30-14.8 regarding a “delivery services internet website” includes an independent third-party technology that does not hold any license or certificate technology provider.

Subchapter 16—Release for Distribution, Packaging, and Labeling of Cannabis Items

218. COMMENT: One commenter respectfully requests a further explanation for the additions at N.J.A.C. 17:30-16.1(a) and (b), pertaining to distribution, packaging, and labeling, which includes the term “unusable” in addition to usable in the statement “test samples of unusable or usable cannabis” and into the phrase “... shall process unusable or usable cannabis or manufacture ...” The commenter states that “No definition of unusable was found in any law or regulations including this current draft.” Further, the commenter states that “The 2019 Jake Honig law did include a definition of usable cannabis which excluded seeds, stems, stalks, and roots.” The commenter states that “it is our assumption that seeds, stems, stalks, and roots may comprise the definition of unusable cannabis.” The commenter concludes “If that is the case, we cannot envision a scenario where unusable cannabis would be either tested (with possible exception for an R&D sample) or processed or manufactured.” (35)

RESPONSE: N.J.A.C. 17:30-1.2 defines “unusable cannabis” as cannabis seeds, stems, stalks, roots, or any part of the immature cannabis plant. The Commission may update its Testing Guidance, which is referenced at N.J.A.C. 17:30-16.1(f), to require certain tests for unusable cannabis, so as to prevent contaminants from being sent to the cannabis manufacturer, if such update is deemed necessary or helpful.

219. COMMENT: One commenter states that at N.J.A.C. 17:30-16.2(a)3, “rodent and bird exclusion practice for packaging” should apply to all processes, (for example, cultivation, manufacturing, etc.). (214)

RESPONSE: N.J.A.C. 17:30-16.2(a)3 describes packaging for cultivators and manufacturers, and “rodent and bird exclusion practices.”

220. COMMENT: One commenter states that proposed N.J.A.C. 17:30-16.2(d) should be amended “to permit a cannabis cultivator to package usable cannabis for sale to a cannabis retailer without a maximum weight restriction of one ounce of cannabis per package.” The commenter states that when a “cannabis cultivator is wholesaling usable cannabis to a retailer, the transactions will likely entail several pounds of cannabis.” The commenter states that “the cultivator should have the flexibility to package and dispense at least one pound of cannabis per package in order to avoid excessive costs associated with having to purchase several smaller containers, and the additional labor involved with packaging, labeling, and securing each smaller container.” The commenter provides an example that “if a cannabis cultivator received an order from a retailer for a purchase of 10 pounds of cannabis, under the proposed rule, the cultivator would be forced to deliver the order in a minimum of 160 separate packages, as opposed to just 10 packages if the maximum weight per package was increased to one pound.” The commenter states that “Materially, the proposed rule that would require cultivators to use large

quantities of smaller packages is contrary to the Environmental Impact Plans cannabis businesses were required to submit with their applications, which included a sustainable packaging plan to specifically reduce waste from the needless use of smaller, unnecessary packages when wholesaling cannabis products.” (127)

RESPONSE: The retailer shall not open cannabis item packages and repackage them. Only cannabis cultivators and cannabis manufacturers may package their products before selling or transferring them to other cannabis businesses. See N.J.A.C. 17:30-16.2(a). The retailer shall sell pre-packaged cannabis items that it purchases from other cannabis businesses. The smaller packages are necessary, as they are the final form of the product that is labeled and sold to the consumer, and the existing language preserves packaging.

221. COMMENT: One commenter requests that the CRC remove N.J.A.C. 17:30-16.2(f), which states “All packaging for cannabis items shall: 1. Be fully enclosed, opaque, of a single color, and light resistant.” The commenter states that this “will impact the ability for the plastic packaging to be recycled,” because “opaque flexible plastics (not inclusive of milk containers, etc.) are impossible to recycle.” (188)

RESPONSE: N.J.A.C. 17:30-16.2(f) exists to ensure compliance with the CREAMM Act, specifically the statutory provision at N.J.S.A. 24:61-35.a(7)(b), which requires cannabis businesses ensure cannabis items are packaged in opaque, child-resistant special packaging. Thus, no changes can be made upon adoption.

222. COMMENT: One commenter suggests an amendment at N.J.A.C. 17:30-16.2(f), pertaining to cannabis item packaging requirements. The commenter states that the Commission’s current packaging restriction “not being reflected in the existing marketplace, so this needs to be pointed out and rewritten appropriately”. The commenter suggests adding the following language at N.J.A.C. 17:30-16.2(f): All packaging for cannabis items shall: Be fully enclosed, opaque, of a single no greater than 2 colors, and light resistant. i. Packaging may contain [a] logos or symbols of a different color or colors [, provided the logo is no larger than one inch in length and one inch in height]; Words, descriptions, flavors and product descriptors are allowed in the 2nd color on the packaging. (61)

RESPONSE: As stated in the Response to Comment 221, N.J.A.C. 17:30-16.2(f) exists to ensure compliance with the CREAMM Act, specifically the statutory provision at N.J.S.A. 24:61-35.a(7)(b). Upon adoption, the Commission has determined not to increase the number of colors on packaging based on the strict advertising requirements from the CREAMM Act. Thus, no changes will be made upon adoption.

223. COMMENT: One commenter requests that the CRC remove N.J.A.C. 17:30-16.2(h), which states that cannabis businesses shall make a good faith effort to utilize packaging that is biodegradable. The commenter states that similar to “compostables,” biodegradables have an environmental impact that is worse than that of single-use plastics when examining its entire lifecycle, and are too expensive for businesses, and contaminate otherwise valuable feedstock for both recycling and composting. The commenter suggests that New Jersey begins to find ways to support a reusable packaging system so that consumers can easily return packaging to its source for reuse. (188)

RESPONSE: The goal of N.J.A.C. 17:30-16.2(h) is to reduce environmental impacts, and the CRC will continue to research and consider sustainable packaging policies, including reusable packaging systems, as those items are more readily available.

224. COMMENT: One commenter proposes that the CRC consider removing the sequential serial number requirement found at N.J.A.C. 17:30-16.3(b)5. The commenter states that this requirement makes more sense for medical. However, the commenter goes on to say that “in an adult use program where a cannabis business cannot, and does not, store the sales data for every customer and where cannabis is available to wider array of individuals, this regulation no longer fits its purpose.” The commenter states that “the requirement creates a significant burden on businesses that the microbusinesses and small retailers may not be able to absorb.” To comply with this requirement, the commenter states that “cultivators and manufacturers must perform additional steps within the traceability system to subplot items one-by-one to be given a specific serial number in our tracking system (BioTrack).” The commenter states that it “also leads to difficulties placing available products for wholesale purchase on LeafTrade as orders are placed for individual serial

numbered-items rather than for a batch number that would be associated with all products that have shared harvest date, testing date, packaged date, and expiration date, and test results.” The commenter explains that with “the batch or lot number still on the label, even if the serial number is removed, the CRC will still be able to track products in the case of recall, will still be able to associate the proper testing results with the products on shelves, and would still be able to track any cannabis products back to the moment the clone is cut off the mother plant.” The commenter is “unaware of any other state that requires sequential serial numbers to be placed on cannabis product packaging.” (222)

225. COMMENT: One commenter states that the CRC must “get rid of individual barcoded inventory.” The commenter states that entities “take in way too much inventory to have to be relabeling and organizing it every single day of the week.” The commenter further states that “cultivators already have all the required information on their labels, so dispensaries should also be able to just scan those or just have labels with the dispensary name, location, contact info and barcode.” (135)

RESPONSE TO COMMENTS 224 AND 225: The Commission has determined that the barcoded inventory system is necessary from a regulatory perspective for tracking and enforcement purposes. However, if evidence shows that the requirement creates a significant burden on businesses, such as microbusinesses and small retailers, the Commission may consider revising it a future rulemaking.

226. COMMENT: One commenter suggests adding language at N.J.A.C. 17:30-16.3, Cannabis item labeling requirements, because the commenter states that the Commission needs to “elaborate product care writing.” The commenter suggests adding the following language and other amendments at N.J.A.C. 17:30-16.3(b)8: “Direct printing on the package of, or labels affixed to, unusable cannabis packaged for the purposes of manufacturing or cannabis items shall include the following consumer safety and product information: ‘Proper storage directions for the cannabis products, not limited to refrigeration (if necessary), avoidance of sunlight, extreme temperatures, etc.’” (61)

RESPONSE: The Commission has determined that N.J.A.C. 17:30-16.3(b)8 and 14 sufficiently require information about refrigeration and proper storage. Thus, the commenter’s suggested changes will not be made upon adoption.

227. COMMENT: One commenter states that the total CBG calculation is incorrect in the regulations at N.J.A.C. 17:30-16.3(b)9ii. The commenter provides the accurate calculation: Total CBG = CBGA*0.878 + CBG. However, the commenter states that “it is uncommon to see Total CBG as a required calculation in regulations.” Thus, the commenter recommends “that the rules only state that Total THC and Total CBD are required for labeling and reporting.” In the event that “businesses and laboratories may want to voluntarily choose to obtain and report on other totals, such as Total CBG, Total CBC, Total THCV, and Total CBDV,” the commenter recommends the following equations to go into a separate Testing Standards Guidance document and required to be used when reporting on these totals: Total CBG = CBGA*0.878 + CBG, Total CBC = CBGA*0.877 + CBC, Total THCV = THCA*0.867 + THCV, Total CBDV = CBDVA*0.867 + CBDV. (299)

228. COMMENT: One commenter provides a “CBGA Calculation Correction,” which should read “Total CBG = CBGA*0.878 + CBG.” (181)

RESPONSE TO COMMENTS 227 AND 228: The Commission is modifying N.J.A.C. 17:30-16.3(b)9 upon adoption in response to the comments.

229. COMMENT: One commenter suggests additional language at N.J.A.C. 17:30-16.3(b)10: “A QR Code that links the product to the specific manufacturer of the product and the respective Certificate of Analysis from the batch where the cannabis originated be shown on the package.” (61)

230. COMMENT: One commenter proposes that the CRC “require products to be labeled with the QR code direct to the lab-hosted COA.” (181)

231. COMMENT: One commenter strongly recommends “that the CRC requires that the laboratory testing result in the form of a COA (certificate of analysis; aka ‘written report’ at N.J.A.C. 17:30) be attached to all cannabis product labels through a QR code, which can easily be

scanned with a mobile device and accessed by patients and consumers” at N.J.A.C. 17:30-16.3. (299)

232. COMMENT: One commenter strongly recommends “that the CRC requires all dispensaries to have each product COAs electronically or physically accessible in the store and available to show and/or provide to patients and consumers.” (299)

RESPONSE TO COMMENTS 229 THROUGH 232: The Commission is modifying N.J.A.C. 17:30-16.3(b) upon adoption to include a unique URL or QB code as an option to provide the required information.

233. COMMENT: Several commenters state that at N.J.A.C. 17:30-16.3(b)1i(4), pertaining to cannabis item labeling requirements, “Where unusable or usable cannabis does not conform to one of the three chemotypes, it shall be considered as non-conforming and, therefore, discarded.” The commenters further states that “It should not be listed under the ‘closest’ chemotype.” (25, 162, 214, 301, and 307)

RESPONSE: The three chemotypes listed at N.J.A.C. 17:30-16.3(b)1i are general descriptions designed to help consumers understand the likely effects of the cannabis item. The Commission does not see any issues with a cannabis item that does not fall neatly into a chemotype. Thus, no changes will be made upon adoption.

234. COMMENT: One commenter states, “the customer warnings you require [at N.J.A.C. 17:30-16.3(c)] are woefully inadequate.” The commenter submits additional risks that should be listed by both dispensaries and the CRC, which the commenter states are listed by the CDC website at <https://www.cdc.gov/marijuana/index.htm>. The commenter further states that there are reported cases of adverse events because of increases in availability of cannabis products containing Delta-8 THC. (60)

RESPONSE: The Commission has determined that N.J.A.C. 17:30-16.3(c) sufficiently includes all CREAMM Act statutory warning requirements. N.J.A.C. 17:30-16.3(c) requires that labels affixed to packaging must contain several warnings in line with other State regulations, such as: “This product is intended for use by adults 21 years of age or older and not for resale. Keep out of the reach of children,” “There may be health risks associated with the consumption of this product, including for women who are pregnant, breastfeeding, or planning on becoming pregnant, Do not drive a motor vehicle or operate heavy machinery while using this product.” Additionally, cannabis manufacturers are required to add an additional warning for cannabis items that contain a total THC percentage greater than 40 percent pursuant to N.J.A.C. 17:30-16.3(c)2, which states “This is a high potency product and may increase your risk for psychosis.” Thus, all warnings contained within the Commission’s rules are adequate and conform with best practices to protect consumer safety.

235. COMMENT: Ingestible effects warning as noted at N.J.A.C. 17:30-16.3(c)3i(1) must be printed on the front of the package in a 2nd color from the packaging color and clearly readable as outlined. (61)

RESPONSE: The Commission has determined that the proposed requirement for 10-point font for the ingestible product effects warning is sufficient to provide due notice and protect public health and safety. Thus, no change will be made upon adoption.

236. COMMENT: One commenter respectfully requests the Commission “provide examples of what illustrations, images, cartoons, color schemes, graphics, or features make cannabis items or packaging attractive to children” at N.J.A.C. 17:30-16.5(a)6. The commenter states that “it is important to ensure that cannabis and cannabis product packaging is not attractive to children, and we applaud the Commission’s inclusion of language that would prohibit images of items commonly consumed by or associated with children.” However, the commenter notes that “without further clarification and examples of what colors, images, or other illustrations would be prohibited under this rule, cannabis businesses will have difficulty properly complying with the packaging and labeling restrictions as outlined.” (197)

RESPONSE: N.J.A.C. 17:30-16.5(a)6 simply lists examples of prohibited images or graphics. If the license holder believes their proposed image or graphic may be violative of N.J.A.C. 17:30-16.5(a)6, that license holder may submit that proposed image or graphic to the Commission’s investigations team for evaluation and approval.

237. COMMENT: One commenter states that “For any cannabis item that contains a total THC percentage greater than 40 percent, the CRC

requires that dispensaries issue the following warning at N.J.A.C. 17:30-16(c)2: ‘This is a high potency product and may increase your risk for psychosis.’” The commenter states “This is very reckless.” The commenter’s position is that that all forms of THC are dangerous and further states that the “FDA has issued many warnings about this.” (60)

RESPONSE: The Commission disagrees with the commenter that the “FDA has issued many warnings about this.” As mentioned in the responses to prior comments, all warnings contained within the Commission’s rules are adequate to protect consumer health and safety. Thus, no changes will be made upon adoption.

Subchapter 17—Advertising

238. COMMENT: One commenter states, “The proposed rule permits advertising. This is illegal under Federal law because marijuana is a Schedule 1 drug.” The commenter submits excerpts from 21 U.S.C. § 843. (60).

RESPONSE: The Commission sufficiently addressed the Controlled Substances Act, 21 U.S.C. §§ 801 et seq., in its Federal standards analysis in its notice of proposal. *See* 54 N.J.R. 1470(a).

239. COMMENT: In regard to advertising, one commenter urges the Commission to issue guidance clarifying its expectations for “noncommercial speech,” particularly by providing examples. Though the commenter recognizes “the rules do currently define ‘noncommercial,’” the commenter found in their local approval process “that some State residents remain confused by what constitutes ‘advertising’ and what constitutes exempt ‘noncommercial speech.’” (217)

RESPONSE: The Commission defines “noncommercial” at N.J.A.C. 17:30-1.2 as “not dependent or conditioned upon the provision or receipt of financial consideration.” Thus, noncommercial speech is speech not dependent or conditioned upon the provision or receipt of financial consideration.

240. COMMENT: One commenter suggested amending N.J.A.C. 17:30-17.2(d)2 to allow cannabis businesses to advertise on streaming service programs regardless of the time of day if their audiences are composed of at least 71.6 percent of individuals who are 21 years of age or older. The commenter also recommends a legislative change to apply this same standard for television and radio in statute. The commenter reasons that these “restrictions significantly limit the ability of new cannabis businesses to reach consumers in a market that is already dominated by pre-existing businesses.” Further, the commenter states that “the time window restriction placed upon cannabis advertisements does not factor in that many programs running on these mediums maintain an audience composition of 71.6 percent or greater of individuals who are 21 years of age or older regardless of the time of the day that these programs are running.” (197)

RESPONSE: The Commission has determined that streaming services are a medium that is very similar to television and radio. The CREAMM Act, at N.J.S.A. 24:6I-35.a(9)(b) prohibits “advertising of any cannabis items or cannabis paraphernalia on television, or on radio between the hours of 6:00 a.m. and 10:00 p.m.” Thus, no changes will be made upon adoption.

241. COMMENT: Several commenters recommend “restricting the hours of online advertising” [N.J.A.C. 17:30-17.2(d)2i] and further recommend “forbidding online advertising on publications read by the youth market. Advertising should not and cannot target the under 25 youth market whose brains are still developing and can be harmed by marijuana usage.” (51, 62, 155, 214 335, and 336)

RESPONSE: The Commission has determined that its advertising rules at Subchapter 17 sufficiently comply with the CREAMM Act, including the statutory provision at N.J.S.A. 24:6I-35.a(9)(c), which prohibits cannabis businesses from “engaging in advertising unless the advertiser has reliable evidence that at least 71.6 percent of the audience for the advertisement is reasonably expected to be 21 years of age or older.” Thus, no changes will be made upon adoption.

242. COMMENT: One commenter states that pursuant to N.J.A.C. 17:30-17.2(d)5, “cannabis businesses will not be able to use their branding to promote events or offer event sponsorship for charitable, sports, musical, artistic, cultural, social, or other similar event or sponsor such an event, unless it can demonstrate reliable evidence that no more than 20 percent of the audience at the event is reasonably expected to be under the

legal age to purchase cannabis items.” The commenter states that “there exists no such restriction on alcohol companies, whom are not only permitted to sell their products at many such events, including sporting events which are largely attended by families with children under 21, but such companies often serve as event sponsors and are permitted to advertise their brand in stadiums and arenas.” The commenter emphasizes “this issue also in light of statements made by at least one Commissioner that operators need to be ‘doing more’ with respect to giving back to communities; but as the preceding demonstrates, licensed operators are limited in their charitable, sports, musical, cultural, social, or other similar sponsorship in the absence of such ‘reliable’ evidence, which is harder for smaller community related events to guarantee, that is, the ones who need such sponsorship the most.” The commenter requests that the CRC revise this restriction. (223)

RESPONSE: N.J.A.C. 17:30-17.2(d)5 seeks to minimize the number of individuals who are under 21 years of age to view cannabis advertising at the events enumerated by the regulation. The Commission has interpreted the CREAMM Act to impose strict advertising requirements regarding individuals under 21 years of age. As such, no changes will be made upon adoption.

243. COMMENT: One commenter requests that the Commission “permit cannabis businesses to advertise on billboards with consideration to how digital billboards can assist in featuring such content at designated hours” at N.J.A.C. 17:30-17.2(d)6. The commenter reasons that this “prohibition unnecessarily limits operators’ ability to reach consumers and inhibits their ability to establish brand recognition and trustworthiness.” Further, the commenter states that “prohibiting cannabis advertising on billboards reduces the number of mediums available to reach consumers, and, thus, the cost of advertising in other forms or media is likely to increase, which would likely impact smaller operators who may have limited marketing budgets compared to other more well-resourced operators.” The commenter states that “nearby states like Connecticut and Massachusetts both allow for cannabis advertisements on billboards with restrictions in place to ensure that the advertisements are not targeting individuals under 21 years old.” (197)

RESPONSE: The Commission’s billboard rules are in place to ensure cannabis businesses are complying with the CREAMM Act, including the statutory provision at N.J.S.A. 24:6I-35.a(9)(c), which prohibits cannabis businesses from “engaging in advertising unless the advertiser has reliable evidence that at least 71.6 percent of the audience for the advertisement is reasonably expected to be 21 years of age or older.” Thus, no changes will be made upon adoption.

244. COMMENT: Several commenters request that at N.J.A.C. 17:30-17.2, General advertising requirements and prohibitions, the CRC should not allow “billboards on the outside property or real property of a cannabis business location.” (25, 60, 189, 214, 199, 259, 301, and 307)

RESPONSE: As mentioned in the responses to prior comments, the Commission’s billboard rules comply with the CREAMM Act, including the statutory provision at N.J.S.A. 24:6I-35.a(9)(c), which prohibits cannabis businesses from “engaging in advertising unless the advertiser has reliable evidence that at least 71.6 percent of the audience for the advertisement is reasonably expected to be 21 years of age or older.” The Commission has determined that the billboard restriction at N.J.A.C. 17:30-17.2(d)6 provides an adequate balance between the advertising rights for cannabis businesses and the statutory requirements. Thus, no changes will be made upon adoption.

245. COMMENT: One commenter requests that the Commission “enable cannabis businesses to advertise awards and recognitions that have been issued by a third-party entity” at N.J.A.C. 17:30-17.2(d)11. The commenter states that the current language at N.J.A.C. 17:30-17.2(d)11 would prohibit cannabis businesses from advertising any awards or recognition of “best of” products that they may have won or products they offer for sale. The commenter states that “similar to how many alcohol industry publications issue a ‘best of’ for each year (that is, Wine Enthusiast’s annual list of 100 top wines), cannabis industry publications release similar rankings that would be a valuable marketing tool for cannabis brands and businesses to reach consumers.” (197)

RESPONSE: The Commission’s regulation at N.J.A.C. 17:30-17.2(d)11 only prohibits a representation that one brand or form of cannabis is better, “unless such a claim has been demonstrated by

substantial scientific or clinical evidence.” This regulation is intended to protect public health and safety to ensure that statements are not deceptive, false, or misleading. Thus, no changes will be made upon adoption. However, it should be noted that this regulation does not necessarily prohibit an entity from advertising an award.

246. COMMENT: One commenter respectfully requests the Commission to allow for cannabis businesses to display external signage for cannabis brands and products at N.J.A.C. 17:30-17.2(e)1. The commenter states that “this prohibition will limit a cannabis establishment’s ability to appeal to consumers, as well as undercut licensed cultivators and manufacturers from capitalizing on brand recognition.” Further, the commenter states that “the particular brands and products a retailer carries impacts consumers’ purchasing habits and this information should be made available. Prohibiting this type of advertisement will not further goals for public health and safety.” (197)

RESPONSE: The Commission has determined its regulation at N.J.A.C. 17:30-17.2(e)1 reduces the likelihood that an individual who is under the legal age to purchase cannabis items sees an advertisement for specific products. Thus, no changes will be made upon adoption.

247. COMMENT: One commenter respectfully requests that the Commission amend N.J.A.C. 17:30-17.2(e)4 to permit cannabis businesses to list their prices on third-party webpages that are controlled directly by the cannabis business. The commenter reasons that “the current language does not specify if a cannabis business is allowed to list its prices on a third-party webpage that is controlled directly by the cannabis business.” Further, the commenter states that “ensuring that cannabis businesses can list their prices on multiple platforms is an important resource to enable these businesses to reach as many consumers as possible in a competitive marketplace.” (197)

248. COMMENT: One commenter states that “among the most glaring issues that remain in the proposed rules is the prohibition against advertising information about a product’s price anywhere other than at the cannabis business facility or on its website.” The commenter states that the restriction on pricing “essentially means it is illegal for cannabis businesses to advertise the prices for the products they sell” and “significantly limits consumer knowledge and discourages competition, especially in light of the continuing trend of declining traffic to business websites.” The commenter notes that “cannabis businesses should be allowed to adjust their marketing efforts to reflect this growing trend.” The commenter states that this rule is stricter than how alcohol is treated and states that in New Jersey, “alcohol retail licensees are permitted to advertise in newspapers, circulars, coupon packages, radio, television, or any other media that regularly promotes business to potential customers.” The commenter emphasizes “this distinction given the goal of the CREAMM Act to regulate cannabis sales similar to that of alcohol.” The commenter requests that the CRC revise this restriction in such way that allows cannabis businesses to market their products in the same manner permitted as other regulated industries. (223)

RESPONSE TO COMMENTS 247 AND 248: The Commission is modifying N.J.A.C. 17:30-17.2(e)4 upon adoption to allow prices to be listed on a third-party website.

249. COMMENT: One commenter respectfully requests language to permit promotional items with a licensee’s brand name and logo at N.J.A.C. 17:30-17.2(e)5. Additionally, the commenter states that “consideration should be given to removing this language entirely in an effort to allow cannabis businesses to build brand awareness and affinity within the new regulated market.” The commenter reasons that “this prohibition would strip licensees of another avenue by which they can build brand recognition and a customer base”. The commenter states that “the silencing of cannabis references could be interpreted to mean that a licensee’s brand name would be prohibited, removing an important tool for new businesses looking to build a customer base in a competitive marketplace.” Additionally, the commenter states that “this type of prohibition does not further public health and safety goals but rather continues the stigmatization of a now legal substance.” (197)

250. COMMENT: One commenter notes that, pursuant to N.J.A.C. 17:30-17.2(e)5, cannabis businesses may not “produce any items for sale or promotional gifts, such as t-shirts or novelty items, bearing a symbol or references to cannabis.” The commenter states that there are number of issues with this restriction. Firstly, the commenter argues “the regulation

is unclear and vague because it seems to suggest that cannabis businesses may not market their products as cannabis.” Additionally, the commenter states that “if more strictly interpreted, this provision could also mean that a cannabis manufacturer or cultivator with the word ‘cannabis’ in its name.” Further, the commenter states that this regulation is a more restrictive requirement than the CRC’s medical rules. Finally, the commenter notes that this restriction would be unique compared to other adult-use business states, both in the Northeast and across the nation. The commenter requests that the CRC revise this restriction. (223)

RESPONSE TO COMMENTS 249 AND 250: Pursuant to the CREAMM Act, free giveaways are only permissible for non-promotional, non-business purposes. As promotional gifts are prohibited by statute, no changes will be made upon adoption.

Subchapter 18—Licensing of Testing Laboratories

251. COMMENT: One commenter states that, regarding N.J.A.C. 17:30-18.5(l), the CRC specifically added that research and development testing is allowed prior to “finished product quality control testing,” which the commenter notes “is a good addition for clarification.” The commenter further states that to “avoid potential lab shopping and/or lab ethics issues, we recommend adding the following specific language: A testing laboratory may not certify research and development samples from a cannabis business for resale or transfer to another person, ATC, or cannabis business.” (299)

252. COMMENT: One commenter requests that language be added to clarify the distinction at N.J.A.C. 17:30-18.5(l)2, which states “lab may receive samples of usable cannabis ... and may provide additional optional research and development testing before the finished product QC testing.” The commenter states that “it is perfectly acceptable for license holders to submit R&D samples to an independent testing lab to gain knowledge about the purity and strength of a product in development.” However, the commenter states that “the status of that R&D sample will be tested, and data reported as an R&D sample only.” The commenter concludes “this in no way confers that this could be converted to a QC sample and the results used for release for distribution so long as all tests and specifications are met.” (35)

RESPONSE TO COMMENTS 251 and 252: A cannabis business may sell finished cannabis products that have undergone the quality control testing required at Subchapter 19. A research and development sample may not be sold because it has only undergone research and development testing and not the mandated quality control testing required of all finished cannabis products; however, if a research and development sample is ultimately used in the creation of another cannabis product, and that cannabis product passes all quality control testing, it may be sold like any other cannabis product. Additionally, the Commission is modifying N.J.A.C. 17:30-18.5(l)2 upon adoption to remove the final restriction.

Subchapter 19—Personal Use Usable Cannabis and Cannabis Product Testing Procedures

253. COMMENT: One commenter suggests amendments at N.J.A.C. 17:30-19.3, Testing laboratory sample collection; chain of custody. The commenter states that “the representative sample size and retention size of cannabis products is far in excess of normal quantities needed by industry standards for ingestible products.” Further the commenter states that “microprocessors also have a limited maximum physical plant and thus a related limited storage size.” Thus, the commenter suggests amending the sampling table at N.J.A.C. 17:30-19.3(b)5 and adding another table to reflect sampling sizes “consistent with ISO 2859, AQL inspection level S-4.” The commenter also suggests amending the table to allow for larger batch sizes. (61)

254. COMMENT: One commenter states that “Sampling batch sizes and increments required should be moved to the forthcoming testing guidance document and not listed within the regulations to allow for future flexibility.” The commenter “recommends using the sample increments required from ISO [International Organization for Standardization] 2859, AQL [Acceptable Quality Level] inspection level S-4.” (181)

255. COMMENT: One commenter expressed concerns regarding the “batch sizing” regulation at N.J.A.C. 17:30-19.3(b)4. The commenter states that this “section for increment samples to be collected based on usable cannabis (flower) batch size and cannabis product lot size has

created ambiguity in regard to actual testing batch/lot size.” The commenter’s concern “with this section being in the rules is that the rules could box the industry in for sampling.” Further, the commenter states that “the wording in these regulations will confuse and potentially conflict with the actual testing batch/lot size.” The commenter recommends “removing the increment sections/sampling guidance from N.J.A.C. 17:30-19.3(b)4, 5, and 6 and placing them into a sampling procedures section within the Testing Standards Guidance document.” (299)

256. COMMENT: One commenter states that the level of detail (incremental test samples as a function of batch size) at N.J.A.C. 17:30-19.4, Batch sizes, and 19.5, Incremental sampling, “belongs in a guidance and not in regulation.” The commenter suggests that these sections be removed from the draft and incorporated into the forthcoming testing guidance. (35)

RESPONSE TO COMMENTS 253 THROUGH 256: N.J.A.C. 17:30-19.3(b)5 is similar to N.J.A.C. 17:30-19.3(b)4, in that the number of increments required to be tested increases as the lot size increases, and since the increment numbers are included, a reference to an ISO (International Organization for Standardization) procedure is not necessary. The commenter did not support its assertion that the sample size is “far in excess” of what is required for accurate testing. The Commission is capping usable cannabis batches at 100 pounds and non-homogenizable cannabis product lots at 35,000 units. The proposed language and the Testing Guidance prescribe batch and lot sample sizes.

257. COMMENT: One commenter submits that N.J.A.C. 17:30-19.3(h), which states: “The testing laboratory employee shall transfer the representative retention samples to the cannabis business employee, who shall store them pursuant to N.J.A.C. 17:30-19.5” conflicts with “the CRC’s Social Impact statement in its notice of proposal,” which states “Labs must have a strict chain of custody protocols for samples and will be required to retain a portion for quality control stability testing.” The commenter states that testing laboratories should not be storing retention and/or stability samples and recommends changing the language in the Social Impact statement. (299)

RESPONSE: A Social Impact statement is required only for a notice of proposal, and not for a notice of adoption. However, the Social Impact statement merely makes note that laboratories have a strict chain of custody protocols. In the event that the Social Impact statement could be read to conflict with the Commission’s rules, the rules prevail.

258. COMMENT: One commenter notes that “AOAC [formerly Association of Official Agricultural Chemists] ensures microbiology testing methods are scientifically sound, robust and reliable.” Thus, the commenter states that “an AOAC validated method is important to follow.” The commenter recommends amending N.J.A.C. 17:30-18.5(e) to the following: “1. The testing laboratory shall analyze the samples according to the Cannabis Regulatory Commission’s Testing Guidance, available on the Commission website, except when otherwise required by this subchapter and the Cannabis Regulatory Commission’s Testing Guidance, the test laboratory shall analyze the samples following an AOAC validated method or according to the most current version of the cannabis inflorescence monograph published by the American Herbal Pharmacopoeia.” (209)

RESPONSE: The commenter appears to be referencing amending N.J.A.C. 17:30-19.4(a)1. This paragraph requires that the testing laboratory analyze the samples according to the CRC Testing Guidance. The Testing Guidance includes requirements to use AOAC-certified methods where they are appropriate.

259. COMMENT: One commenter states that “standard laboratory sample storage is 30 days from receipt of sample into the laboratory.” (181)

260. COMMENT: One commenter recommends amendments at N.J.A.C. 17:30-19.4(c), which requires testing laboratories to retain and store tested samples for 45 days after the testing analysis is completed. The commenter recommends “that the laboratory sample retention period be based on the date of sample receipt, not upon the completion of analysis.” The commenter also recommends “that the required minimum retention period is decreased to 30 days after receipt.” The commenter notes that in “a cursory review of other state cannabis program requirements for laboratory sample retention, the maximum noted length is 30 days from sample receipt.” The commenter reasons that the “stability

of cannabinoids is dependent on sample storage conditions, which may vary between laboratories” and further states “it would not be possible to ensure stability of a retention sample for any amount of time if storage conditions are not regulated.” The commenter states that “proper laboratory storage of retention samples requires low temperature freezers and/or refrigerators, which limits the storage space the laboratory has for such samples.” The commenter recommends the following changes at N.J.A.C. 17:30-19.4(c): “The testing laboratory shall retain the remains of the initial sample for a minimum of 30 days after sample receipt. At such time, the testing laboratory shall destroy or render unrecoverable and unrecognizable the remains of the initial sample.” (299)

RESPONSE TO COMMENTS 260 AND 261: The Commission is modifying N.J.A.C. 17:30-19.4(c) upon adoption, to reduce the period of sample retention from 45 days to 30 days.

261. COMMENT: One commenter suggests rewriting N.J.A.C. 17:30-19.5, Retention samples and stability testing. The commenter states that a “stability test over every initial sample tested is much too extensive and repetitive.” The commenter suggests amendments at N.J.A.C. 17:30-19.5(b) and (c), and suggests deleting N.J.A.C. 17:30-19.5(e) entirely. (61)

262. COMMENT: One commenter states that “retention and/or stability samples should be taken after packaging, to accurately represent the product as it is sold.” The commenter states that as “the regulations currently read, the samples are taken by the laboratory prior to packaging” and “would not represent the product that consumers are purchasing, as packaging can preserve (or degrade) active ingredients.” The commenter states that “retention and/or stability sampling should be allowed to be performed by the producer, as this is not the batch release compliance sampling.” The commenter further elaborates that “stability test samples can be a lower quantity than the compliance sample, as it is not for batch-release compliance testing.” The commenter proposes that “stability testing should only be required per product (or SKU), and not for every compliance batch, as is the case in every other industry.” “A change in the master formulation record would require stability testing.” Finally, the commenter states that “stability test samples must be held by the producer in the same storage conditions of the parent batch.” (181)

RESPONSE TO COMMENTS 262 AND 263: Stability testing is required, according to N.J.A.C. 17:30-19.5(c), to ensure product potency and purity and support or debunk the listed expiration date of the batch or lot, and N.J.A.C. 17:30-19.5(e) implements that requirement. N.J.A.C. 17:30-19.5(a)1 requires that the retention sample is stored using the same container or packaging in which the cannabis item is distributed; thus, the retention samples shall be placed in that packaging when they return from the testing laboratory before they are stored at the cannabis business. The testing laboratory performs all required testing, and not the cannabis business, including stability testing, in order to yield consistent results and place the testing in the hands of an uninterested third party. N.J.A.C. 17:30-19.3(b)6 requires two times the representative initial sample amount listed at paragraphs (b)4 and 5 because stability testing will occur two times, at six months and 12 months, and will include several types of tests. Retention samples must be held in storage conditions recommended on the product label or under ordinary storage conditions (N.J.A.C. 17:30-19.5(a)2), to mirror the storage conditions that the cannabis item will be held in by the purchasing consumer.

263. COMMENT: One commenter recommends amending N.J.A.C. 17:30-19.5(e) to reflect an AOAC-validated method. The commenter recommends amending N.J.A.C. 17:30-19.5(e) to the following: “The testing laboratory shall perform stability testing of the retention sample of usable cannabis and cannabis products for: 1. Microbial contamination using an AOAC validated method, pursuant to subsection (f) of the Cannabis Regulatory Commission’s Testing Guidance.” (209)

RESPONSE: N.J.A.C. 17:30-19.5(e) and (f) requires that the testing laboratory analyze the samples according to the CRC Testing Guidance. The Testing Guidance includes requirements to use AOAC-certified methods, where they are appropriate. In response to the comments, the Commission is modifying N.J.A.C. 17:30-16.1(f)1; 19.5(c), (e), and (f), and 19.6(b)9 and 10 upon adoption to remove specific subsection references to the Testing Guidance while maintaining clarity and ensuring the AOAC-certified methods in the Testing Guidance are properly referenced in the rules.

264. COMMENT: One commenter submits a comment “related to the testing of vaporized formulations and their safety.” The commenter provides the following suggestions: “1. ‘Phytol’ must be tested for in vaporized formulations. This is a terpene found in cannabis and can be used as an inactive ingredient. The concentration found naturally in cannabis is extremely low, but since it is a terpene, the only regulation surrounding this excipient is that it should not exceed 10 percent of the formulation. That may be dangerous. A rudimentary mouse experiment to the toxicity of PG (PG is banned from vaporized formulations as per N.J.A.C. 17:30) and phytol notes ‘Exposure to phytol concentrations of 5.9 mg/L resulted in a body weight loss and severe dose-dependent clinical signs’ (a). We must test for phytol and prohibit its addition into vaporized formulations. 2. ‘Nickel’, a well-known carcinogen and common contaminant of vaporized formulations (b) must be tested for. The linked reference examines common metals seen in vaporizer formulations and compares the user’s burden (through inhalation) to standard toxicology references. Although most of the metals tested would fall under typical daily toxic limits, the concentrations per puff were known to exceed regulatory concentration standards and this is an unnecessary health burden. Notably, nickel (and other metals) yielded completely different concentrations when tested in the aerosol (as opposed to being tested in the oil). 3. We must test vaporized formulation ‘aerosols’ directly and standardize testing methodologies. For example, before the vape crisis in 2019, vitamin e acetate was not known to create ketene gas at such low temperatures. This only became apparent after people became sick and died. After this, the reaction was tested and confirmed potential to create ketene gas. Due to the ever-changing nature of hardware used to consume vaporized formulations, we must test the aerosol to prevent potentially unknown hazards. For example, THC-A (the precursor to THC) and some MCT oils are carboxylic acids. Carboxylic acids can be used to synthesize ketene gas at temperatures that vaporizers routinely hit. (c). Cannabis smoking has never yielded a case similar to EVALI in 2019, however, because of variable cartridge hardware and experimental ingredients, unknown chemical reactions with previously unseen catalysts can occur. While N.J.A.C. 17:30 notes a maximum temperature for vaporizer hardware, the enforcement of such regulation will be moot without aerosol tests. For example, ‘Thermography of cannabis extract vaporization cartridge heating coils in temperature- and voltage-controlled systems during a simulated human puff.’ (d) notes that temperature controls on vaporizers are hardly accurate and can reach as high as 1,000 degrees Fahrenheit. We must test vaporized formulation aerosols to ensure public safety, and these must rule out potential harmful reactions such as ketene gas synthesis. Colorado started conducting aerosol testing for metals on January 1, 2022. 4. ‘The New Jersey Cannabis Regulatory Commission’s Testing Guidance’ does not clearly state that vaporized formulations must be tested in their final form. The wording appears to permit testing of cannabis ‘ready to be manufactured into a cannabis product’ (which includes vaporized formulations) or ‘After a cannabis product is in its final processed form.’ A vaporized formulation must be tested in its final form. Vaporized formulations represent the highest risk cannabis products on the market today, because of the limited safety data available. To prevent future harm, we must ensure all vaporized formulation products are tested in their final form.” (124).

RESPONSE: The Commission will continue to research and consider further action on phytol. Nickel testing and action limits can be added in the Testing Guidance, and do not require a change in the rules. The proposed language protects consumer safety by seeking to prevent leaching of dangerous metals into the inhaled vaporized formulation, including voltage/temperature restriction, automatic shutoff requirements, as well as material restrictions, and stability testing, all of which can identify and prevent leaching. The CRC will continue to research and consider adding aerosol testing of vaporized formulation in electronic smoking devices into Subchapter 19 or the Testing Guidance, if deemed necessary or appropriate.

Subchapter 20—Monitoring, Enforcement Action, and Appeal Rights

265. COMMENT: One commenter states that, in reference to N.J.A.C. 17:30-20.2, the CRC should keep existing regulatory language. The commenter suggests the following correction: “Major license violations

mean violations that affect public health or safety or betray the public trust and include, but are not limited to: 11. Having had two or more instances of a license holder refusing to permit the Commission to inspect the premises or administrative office during hours of operation or periods of apparent activity.” (83)

RESPONSE: The Commission has determined that updating the language to clarify that only one instance of refusing to permit the Commission to inspect the premises constitutes a “major license violation” at N.J.A.C. 17:30-20.2 is necessary from an enforcement perspective. The Commission could not identify a legitimate reason for why a cannabis business would ever refuse to permit the Commission to inspect the business’s premises, and the language was been updated in this rulemaking to protect consumer health and safety.

266. COMMENT: One commenter recommends that the “timeline for issuance of notice of civil monetary penalty at proposed N.J.A.C. 17:30-20.6, be at least 25-30 business days after the issuance of the notice of violation, so as to accommodate the license holders right to submit a corrective action plan within 20 business days of the notice.” The commenter reasons that “applying a sanction within five days when a company has up to 20 days to provide a corrective action plan—which presumably would also identify the basis for the underlying alleged violation—subverts normal concepts of due process.” (223)

RESPONSE: The commenter has an incorrect understanding of when the Commission may issue a sanction. Pursuant to N.J.A.C. 17:30-20.4(a), within seven business days following the identification of a violation, the Commission shall provide a notice of the violation. Pursuant to N.J.A.C. 17:30-20.4(b), within 20 business days of receipt of the notice of violation, the cannabis business or testing laboratory shall notify the Commission of any corrective actions. Pursuant to N.J.A.C. 17:30-20.4(c), within seven calendar days of receiving notice of correction action, the Commission shall verify that the corrective action is satisfactory. Corrective action plans are meant to ensure system or operational changes are made to prevent the violation from reoccurring; they do not change the fact that a violation had occurred. The Commission can still impose sanctions in response to the violation that initially occurred, and a cannabis business may appeal any sanction that is imposed.

267. COMMENT: One commenter states that at N.J.A.C. 17:30-20.6, “penalties should retain the word ‘shall.’” (214)

RESPONSE: The Commission understands that each violation is fact dependent. Thus, the Commission will impose penalties on a case-by-case basis, depending on the factors enumerated at Subchapter 20, which will ensure fairness across the industry. Thus, the commenter’s suggested change will not be made upon adoption.

268. COMMENT: One commenter states that the language contained within Category I under the CRC’s proposed addition at N.J.A.C. 17:30-20.7(a)1, is too broad in reach with too extreme a sanction to be warranted. The commenter proposes that “pattern and practice” be defined, as well as to provide a list or example of what constitutes a “serious risk of harm.” The commenter asks “Could harm be theoretical? What constitutes a serious risk of harm to the welfare of consumers or personnel? How does the Category I language relate to the language contained at proposed N.J.A.C. 17:30-20.9?” The commenter states that “the language utilized is so broad that it becomes difficult for an individual operator to determine what conduct they are to avoid; especially in light of the fact that a first offense of a Category I violation results in license revocation.” (222)

RESPONSE: As mentioned in the Response to Comment 267, the Commission understands that each violation is fact dependent. The addition of a penalty matrix merely guides the Commission but puts the public on notice regarding major license violations. However, Commission will always impose penalties on a case-by-case basis, depending on the factors enumerated at Subchapter 20, which will ensure fairness across the industry. Thus, the commenter’s suggested changes will not be made upon adoption.

269. COMMENT: One commenter proposes that the catch-all language including a “transfer of cannabis to a person under 21 years of age” be removed from Category II under the CRC’s proposed addition at N.J.A.C. 17:30-20.7(a)2. The commenter reasons that the “language would suggest that a Category II violation could be found in the instance of an individual utilizing a fake ID and obtaining cannabis from a licensed

operator, irrespective of the adequacy of the operator’s standard operating procedures related to age verification.” Thus, the commenter states that “by virtue of this limited language in Category II, an operator would be subject to a \$500,000 fine for the first such violation, a suspension on the second, and revocation on the third.” (223)

RESPONSE: As mentioned in the Response to Comment 267, the Commission understands that each violation is fact dependent. The addition of a penalty matrix merely guides the Commission, but puts the public on notice regarding major license violations. Additionally, at N.J.A.C. 17:30-20.6, the license holder may request an adjudicatory hearing within 14 days of receipt of the notice of civil monetary penalty, where the license holder may present the defense of an adequate standard operating procedure for age verification. Thus, no changes will be made upon adoption.

270. COMMENT: One commenter states that Category IV under the CRC’s proposed addition at N.J.A.C. 17:30-20.7(a)4, is problematic for its own host of reasons. First, the commenter states there are no formal Cannabis Business Identification Cards, nor any approved training courses for employees; meaning, every single operational adult-use business would be in violation of Category IV, but not for any reason of its own failing. Moreover, the commenter states that ATCs are still permitted to proceed under the expedited employee onboarding process, whereby employees may commence working prior to their formal criminal background check coming back from investigations. Thus, while the commenter understands the spirit and intention of Category IV, that is, to have properly registered employees, the commenter asks that the CRC recognize the preceding issues as it relates to implementation. (223)

RESPONSE: As mentioned in the Response to Comment 267, the Commission understands that each violation is fact dependent. The addition of a penalty matrix merely guides the Commission, but puts the public on notice regarding major license violations. Additionally, identification cards for personnel currently exist, and ATCs and cannabis businesses are required to train their personnel. Moreover, cannabis businesses have the option to use provisional authority for a criminal history background check at N.J.A.C. 17:30-7.12(f).

271. COMMENT: One commenter states that the CRC’s proposed addition at N.J.A.C. 17:30-20.7(a)5, which identifies categories of violation and related escalated sanctions that can lead to license suspension, and it is concerned for how quickly these violations can add up to license suspension and/or revocation. The commenter states that Category V is identified as “violations of the Commission’s rules, or **violations of valid ordinances established by municipalities** that do not constitute a major violation.” Because that would appear to be solely within the discretion of individual municipalities, the commenter proposes that the above-referenced bold language be removed from the proposed regulation. (223)

RESPONSE: The Commission has determined that license holders must abide by all laws, rules, and regulations, including, but not limited to, a municipality’s ordinances. Thus, no changes will be made upon adoption.

272. COMMENT: Several commenters state that at N.J.A.C. 17:30-20.7(b), the penalties are not strong enough. The commenters suggest that for Category IV and Category V, the first and second violations should incur more penalty dollars, the third violation should be a suspension; and the fourth violation should be a revocation. (25, 60, 162, 189, 214, 301, and 307)

RESPONSE: The Commission’s penalty matrix at N.J.A.C. 17:30-20.7 provide an adequate balance between discouraging the listed types of violations while avoiding over-penalizing license holders. Thus, no changes will be made upon adoption.

273. COMMENT: One commenter states that N.J.A.C. 17:30-20.2, Major license violations, “should include diversion of ‘unusable’ cannabis if allowing sale and manufacturing of same.” (214)

RESPONSE: The Commission agrees with the commenter that a major license violation pursuant to N.J.A.C. 17:30-20.2, should include the diversion of both usable and unusable cannabis. However, this is not a change that can be made upon adoption pursuant to the APA, but the Commission will propose this amendment in a future rulemaking.

274. COMMENT: One commenter states that at N.J.A.C. 17:30-20.3, 20.4, 20.5, and 20.8, the word “may” should be replaced with “shall” or “will.” (214)

RESPONSE: The Commission understands that each violation is fact dependent. Thus, the Commission will impose penalties on a case-by-case basis, depending on the factors enumerated at Subchapter 20, which will ensure fairness across the industry. Thus, the commenter’s suggested change will not be made upon adoption.

Summary of Agency-Initiated Changes:

The Commission is modifying the following rules upon adoption in order to correct either typographical or printing errors:

1. The Commission is modifying the definition of “owner” at N.J.A.C. 17:30-1.2, as the five percent ownership interest clause applies to both subparagraphs of the definition, not just the first.
2. The Commission is making a technical change at N.J.A.C. 17:30-6.6(a)1 to change “one of the following criteria” to “all of the following criteria.” This was clearly the intent and legal bases of the paragraph as the two listed subparagraphs are separated with “and” not “or.”
3. The Commission is modifying N.J.A.C. 17:30-7.7(k) to change “final decision of an application” to “final decision on an application.”
4. The Commission is modifying N.J.A.C. 17:30-7.8(a)4 to correct an omission of the word “business.”
5. The Commission is modifying N.J.A.C. 17:30-7.11(c)2iii to clarify that “personal use or cannabis” should be “personal use or medical cannabis.”
6. The Commission is modifying N.J.A.C. 17:30-11.5(c)3 to update the cross-reference.

Federal Standards Analysis

N.J.S.A. 52:14B-1 et seq., requires State agencies that adopt, readopt, or amend State rules that exceed any Federal standards or requirements to include in the rulemaking document a Federal standards analysis. The New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (Act) obliges the New Jersey Cannabis Regulatory Commission to promulgate rules necessary or proper to enable it to carry out the Commission’s duties, functions, and powers with respect to overseeing the development, regulation, and enforcement of activities associated with the personal use of cannabis pursuant to P.L. 2021, c. 16. These duties include the regulation of the purchase, sale, cultivation, production, manufacturing, transportation, and delivery of cannabis or cannabis items in accordance with the provisions of the Act. Therefore, the Act requires the Commission to promulgate rules governing the regulated community’s cultivation, possession, manufacture, sale, distribution, and use of cannabis.

The Controlled Substances Act, 21 U.S.C. §§ 801 et seq., prohibits the cultivation, distribution, and possession of marijuana or cannabis, for any reason, regardless of state law. 21 U.S.C. §§ 841 et seq. The rules readopted with amendments, new rules, and recodifications anticipate that members of the regulated community would cultivate, distribute, and possess cannabis, and may engage in certain financial activities that are ancillary to cultivation, distribution, and possession of cannabis. These ancillary financial activities may constitute prohibited conduct under other Federal criminal and civil laws, such as the money laundering statutes, the unlicensed money transmitter statute, and the Bank Secrecy Act (BSA). 18 U.S.C. §§ 1956 through 1957, and 1960; and 31 U.S.C. § 5318.

Members of the regulated community who engage in activities contemplated by the Act might incur Federal civil and criminal liability. N.J.S.A. 24:6I-2.d notes that “States are not required to enforce [Federal] law or prosecute people for engaging in activities prohibited by [Federal] law; therefore, compliance with [the Act] does not put the State of New Jersey in violation of [Federal] law,” and N.J.S.A. 24:6I-54 further directs law enforcement in New Jersey to not cooperate with Federal agencies enforcing the Controlled Substances Act for activities solely authorized by the Act.

Between October 2009 and late October 2014, the United States Department of Justice (Justice Department) issued a series of formal memoranda to United States attorneys to guide their exercise of investigative and prosecutorial discretion in states enacting laws authorizing the cultivation, distribution, and possession of marijuana, for

medicinal and/or personal-use purposes. David W. Ogden, Deputy Attorney Gen., Memorandum for Selected United States Attorneys: Investigations and Prosecutions in States Authorizing the Medical Use of Marijuana (October 19, 2009); James M. Cole, Deputy Attorney Gen., Memorandum for United States Attorneys: Guidance Regarding the Ogden Memo in Jurisdictions Seeking to Authorize Marijuana for Medical Use (June 29, 2011); James M. Cole, Deputy Attorney Gen., Memorandum for All United States Attorneys: Guidance Regarding Marijuana Enforcement (August 29, 2013); James M. Cole, Deputy Attorney Gen., Memorandum for All United States Attorneys: Guidance Regarding 32 Marijuana Related Financial Crimes (February 14, 2014); and Monty Wilkinson, Director of the Executive Office for United States Attorney’s, Policy Statement Regarding Marijuana Issues in Indian Country (Oct. 28, 2014). While noting the Justice Department’s commitment to enforcing the Controlled Substances Act, these guidance memoranda instructed United States Attorneys to focus on the following eight enforcement interests in prioritizing the prosecution of Federal laws criminalizing marijuana-related activity in states that have enacted laws authorizing marijuana-related conduct:

1. Preventing the distribution of marijuana to minors;
2. Preventing revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;
3. Preventing the diversion of marijuana from states where it is legal in some form under state law to other states;
4. Preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;
5. Preventing violence and the use of firearms in the cultivation and distribution of marijuana;
6. Preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use;
7. Preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and
8. Preventing marijuana possession or use on federal property. Cole (August 29, 2013), *Id.*, at 1-2.

The memoranda encouraged United States Attorneys to continue to rely on states that have enacted laws authorizing marijuana-related conduct to address marijuana-related activity through enforcement of state controlled substances laws, if those states “provide the necessary resources and demonstrate the willingness to enforce their laws and regulations in a manner that ensures they do not undermine” the eight Federal enforcement priorities, *Id.*, at 2-3, and “implement clear, strong and effective regulatory and enforcement systems in order to minimize the threat posed” to the eight Federal enforcement priorities. Cole (February 14, 2014), *Id.*, at 3. The memoranda noted that persons and entities engaged in marijuana-related activities “are more likely to risk entanglement with conduct that implicates the eight [Federal] enforcement priorities” in states that lack “clear and robust” regulatory schemes and enforcement systems. *Ibid.*

In guidance issued concurrently with Deputy United States Attorney General Cole’s February 14, 2014, memorandum on marijuana-related financial crime enforcement priorities, *Ibid.*, the Financial Crimes Enforcement Network (FinCEN) of the United States Department of the Treasury (Treasury Department) issued a companion guidance document that “clarifies how financial institutions can provide services to marijuana-related businesses consistent with their Bank Secrecy Act (BSA) obligations, and aligns the information provided by financial institutions in BSA reports with [Federal] and state law enforcement priorities. This FinCEN guidance should enhance the availability of financial services for, and the financial transparency of, marijuana-related businesses.” FinCEN, United States Department of the Treasury, Guidance FIN-2014-G001: BSA 34 Expectations Regarding Marijuana-Related Businesses (February 14, 2014) (FinCEN Guidance).

The FinCEN Guidance emphasizes that financial institutions’ exercise of thorough due diligence is critical to their assessment of the risk of providing services to marijuana-related businesses, and specifies tasks financial institutions should perform as part of their due diligence, noting that as “part of its customer due diligence, a financial institution should consider whether a marijuana-related business implicates one of the [eight

Federal enforcement] priorities or violates state law.” *Id.*, at 2-3. The FinCEN Guidance identifies the types of required “Suspicious Activity Report” and “Currency Transaction Report” filings that financial institutions are to make attendant to their engagement with marijuana-related businesses, and provides a non-exhaustive list of “red flags” or indicia that could give rise to a financial institution’s suspicion, or actual or constructive knowledge, “that a marijuana-related business may be engaged in activity that implicates one of the [eight Federal enforcement] priorities or violates state law,” thereby triggering the financial institution’s obligations to perform additional due diligence investigation and/or file a “Marijuana Priority” Suspicious Activity Report. *Id.*, at 3-7.

On January 4, 2018, the Justice Department issued a memorandum to all United States Attorneys, instructing them that, in “deciding which marijuana activities to prosecute under [applicable Federal] laws with the [Justice] Department’s finite resources, to follow the well-established principles that govern all [Federal] prosecutions as reflected in the United States Attorneys’ Manual. These principles require [Federal] prosecutors deciding which cases to prosecute to weigh all relevant considerations, including [Federal] law enforcement priorities set by the Attorney General, the seriousness of the crime, the deterrent effect of criminal prosecution, and the cumulative impact of particular crimes on the community. Given the Department’s well-established general principles, previous nationwide guidance specific to marijuana enforcement is unnecessary and is rescinded, effective immediately.” Jefferson B. Sessions, III, Attorney Gen., Memorandum for All United States Attorneys: Marijuana Enforcement (January 4, 2018) (Sessions Memorandum) (specifically listing, at n.1, the 2009 through 2014 Justice Department Memoranda, discussed above, as rescinded). The Sessions Memorandum neither identified the “law enforcement priorities set by the Attorney General” that United States Attorneys were to consider instead of the eight Federal enforcement priorities announced in the rescinded Justice Department Memoranda, nor did it explain whether and how those sets of priorities might differ. However, the press release accompanying its issuance characterized the Sessions Memorandum as, “announcing a return to the rule of law,” and quoted Attorney General Sessions as saying that the Sessions Memorandum, “simply directs all [United States] Attorneys to use previously established prosecutorial principles that provide them all the necessary tools to disrupt criminal organizations, tackle the growing drug crisis, and thwart violent crime across our country.” Office of Public Affairs, Justice Department, Press Release No. 18-8: Justice Department Issues Memo on Marijuana Enforcement (January 4, 2018). The Treasury Department did not issue guidance, concurrent with the issuance of the Sessions Memoranda, or thereafter, rescinding its FinCEN Guidance. Therefore, the FinCEN Guidance appears to remain extant.

While there has been no new guidance released from the Justice Department since the Sessions Memorandum, Attorney General Merrick Garland, twice provided testimony to Congress in 2021 where he reiterated the spirit of the Cole memorandum and its commitment to deprioritizing Federal enforcement against persons and entities complying with state law in a state with a well-regulated cannabis program. He stated: “I do not think it the best use of the [Justice] Department’s limited resources to pursue prosecutions of those who are complying with the laws in states that have legalized and are effectively regulating marijuana.” Senate Committee on the Judiciary, Responses to Questions for the Record to Judge Merrick Garland, Nominee to be United States Attorney General (February 28, 2021); Senate Committee on the Judiciary, Hearing on the Nomination of the Honorable Merrick Brian Garland to be Attorney General of the United States (February 22, 2021); House Appropriations Subcommittee on Commerce, Justice, Science, and Related Agencies, Hearing on the Fiscal Year 2022 Budget Request for the Department of Justice (May 4, 2021).

Additionally, existing Federal budget laws protect and safeguard state-administered legal medicinal marijuana programs. The Blumenauer amendment (previously known as the Rohrabacher-Farr amendment), most recently sponsored by United States Representative Earl Blumenauer (D-OR), prevents the Justice Department from using Federal funds to prosecute state-compliant medical marijuana operators in states that have legal cannabis programs. It was first approved in 2014, and has been approved or renewed by Congress more than 29 times since. The

language is no longer offered as an amendment as it is now part of the proposed budget language, and it was most recently renewed on March 15, 2022, as part of the most recent omnibus spending bill, the Consolidated Appropriations Act, 2022 (Pub. L. 117-103), which is in effect through September 30, 2022.

The rules readopted with amendments, new rules, and recodifications adhere to the standards outlined in the Cole memorandum. The rules require strict inventory tracking, sets stringent security standards for cannabis businesses, and further enforces the Act’s prohibition on the sale of cannabis to anyone under the age of 21. Furthermore, the rules reference similar standards to those outlined in the Cole Memo in the Cannabis Regulatory Commission’s rules for determining who is qualified to hold a license and engage in activity authorized by the Act.

Full text of the adoption follows (additions to proposal indicated in boldface with asterisks ***thus***; deletions from proposal indicated with brackets with asterisks ***[thus]***):

CHAPTER 30 PERSONAL USE CANNABIS RULES

SUBCHAPTER 1. GENERAL PROVISIONS

17:30-1.1 Purpose and scope

(a) This chapter implements the Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act, P.L. 2021, c. 16 (N.J.S.A. 24:6I-31 et seq.).

(b) This chapter is applicable to the development, expansion, regulation, and enforcement of all activities associated with the personal use of cannabis pursuant to the Act.

(c) This chapter applies to any person, entity, organization, or business possessing, buying, selling, cultivating, producing, manufacturing, transporting, or delivering any cannabis or cannabis items within this State, or engages in any other activity associated with the personal use of cannabis pursuant to the Act.

17:30-1.2 Definitions

(a) All definitions contained in the Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act, P.L. 2021, c. 16 (N.J.S.A. 24:6I-31 et seq.), are incorporated herein by reference.

(b) The following words and terms, as used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

“Accreditation body” means an impartial, non-profit organization that:

1. Is a signatory to the International Laboratory Accreditation Cooperation (ILAC) Mutual Recognition Arrangement for Testing and is recognized by ILAC;

2. Determines a laboratory’s compliance with and conformance to the International Organization for Standardization (ISO) 17025 standards and provides accreditation for compliant laboratories; and

3. Is not affiliated with any laboratory seeking accreditation.

“Act” means the Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act, P.L. 2021, c. 16 (N.J.S.A. 24:6I-31 et seq.).

“Adverse event” means any health-related event in a person, which is associated with the use of a cannabis item, that is undesirable and is unexpected or unusual.

“Advertisement” means any calculated attempt to directly or indirectly induce sales of cannabis items, including, but not limited to, any commercial written or verbal statement or communication of any other means. The term shall not include:

1. Noncommercial speech;

2. A label on a cannabis item pursuant to N.J.A.C. 17:30-16.3 and its accompanying supplemental information, pursuant to N.J.A.C. 17:30-14.3(h) and (i);

3. Information provided by a cannabis business to another cannabis business listing its products for sale; and

4. “Adopt-a-Highway” signs erected under a current valid sponsorship with the New Jersey Department of Transportation.

“Aggregate ownership interest” means the total ownership interest held by an owner that is a person and by the spouse, domestic partner, civil union partner, child, sibling, or parent of the person.

“Alternative treatment center” or “ATC” means a medical cannabis cultivator, a medical cannabis manufacturer, and/or a medical cannabis dispensary that has been issued a permit to cultivate, manufacture, dispense, or engage in other activities related to medical cannabis and related paraphernalia pursuant to P.L. 2019, c. 153 and N.J.A.C. 17:30A.

“Batch” means a specific quantity of usable cannabis propagated from the same seed or plant stock at the same time, cultivated in the same cultivation area under similar conditions, and harvested together during a specific time interval.

“Billboard” means a large outdoor sign, with a minimum size of five feet in height by 11 feet in width, used for the display of a commercial message.

“Board member” means, where a cannabis business or testing laboratory license applicant or license holder is governed by a governing body, such as a board of directors, a member of that governing body.

“Bona fide labor organization” has the same meaning as at N.J.S.A. 24:61-36.c.

“Business day” means any day, other than a Saturday, Sunday, or a State-recognized holiday.

“Cannabidiol” or “CBD” means a non-psychoactive constituent of cannabis, C21H30O2.

“Cannabis” means all parts of the plant *Cannabis sativa L.* within the plant family *Cannabaceae*, whether growing or not, the seeds thereof, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds, except those containing resin extracted from the plant; which are cultivated and, where applicable, manufactured for use in cannabis products, in accordance with the Act and this chapter.

“Cannabis business” means a cannabis cultivator, a cannabis manufacturer, a cannabis retailer, cannabis wholesaler, cannabis distributor, or cannabis delivery service. “Cannabis business” includes an “expanded ATC.”

“Cannabis business delivery personnel” means cannabis business personnel possessing a Cannabis Business Identification Card who deliver cannabis items or cannabis paraphernalia on behalf of a cannabis business to a consumer.

“Cannabis Business Identification Card” means a document issued by the Commission pursuant to N.J.A.C. 17:30-8.1(c) that identifies a person as an owner, principal, management services contractor, employee, or volunteer acting on behalf of a cannabis business or testing laboratory or other cannabis handler pursuant to N.J.S.A. 24:61-44.a, required to register with the Commission pursuant to N.J.A.C. 17:30-8.1(a).

“Cannabis concentrate” or “cannabis resin” means a product manufactured by a cannabis manufacturer, either in solid form or in liquid form as oil, including cannabis extracts and resin extracted using non-chemical processes, that contains only the resin, cannabinoids, terpenes, and other substances extracted from any part of the cannabis plant.

“Cannabis cultivator” means a business or organization owned and controlled by a license holder that holds a Class 1 Cannabis Cultivator license issued by the Commission.

“Cannabis delivery service” means a business or organization owned and controlled by a license holder that holds a Class 6 Cannabis Delivery license issued by the Commission.

“Cannabis distributor” means a business or organization owned and controlled by a license holder that holds a Class 4 Cannabis Distributor license issued by the Commission.

“Cannabis establishment” means a cannabis cultivator, a cannabis manufacturer, a cannabis wholesaler, or a cannabis retailer.

“Cannabis extract” means a substance obtained by separating resins from cannabis by:

1. A chemical extraction process using a hydrocarbon-based solvent, such as butane, hexane, or propane;
2. A chemical extraction process using the hydrocarbon-based solvent carbon dioxide, if the process uses high heat or pressure; or
3. Any other process identified by the Cannabis Regulatory Commission by rule.

“Cannabis flower” means the flower of the cannabis plant.

“Cannabis item” means any usable cannabis or cannabis product that is cultivated, produced, manufactured, or consumed in accordance with the Act.

“Cannabis leaf” means the leaf of the cannabis plant.

“Cannabis manufacturer” means a business or organization owned and controlled by a license holder that holds a Class 2 Cannabis Manufacturer license issued by the Commission.

“Cannabis paraphernalia” means any equipment, products, or materials of any kind that are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing cannabis, or for ingesting, inhaling, or otherwise introducing a cannabis item into the human body.

“Cannabis plant” means the plant *Cannabis sativa L.* within the plant family *Cannabaceae* in the seedling, vegetative, or flowering stages, with readily observable roots and leaves with serrated edges; but does not include a germinated seed, cutting, or clone without readily observable roots and leaves with serrated edges.

“Cannabis product” means a cannabis concentrate or a cannabis-infused product, that a cannabis manufacturer manufactures, produces, or creates from usable cannabis or cannabis concentrate.

“Cannabis retailer” means a business or organization owned and controlled by a license holder who holds a Class 5 Cannabis Retailer license issued by the Commission.

“Cannabis wholesaler” means a business or organization owned and controlled by a license holder who holds a Class 3 Cannabis Wholesaler license issued by the Commission.

“Cannabis-infused product” means a product manufactured by a cannabis manufacturer in an authorized form that contains usable cannabis or cannabis concentrate, in solid or liquid form, and one or more ingredients intended for human consumption or use, including an ingestible product, inhalable product, or dermal product.

“Commission” means the New Jersey Cannabis Regulatory Commission established pursuant to section 31 at P.L. 2019, c. 153 (N.J.S.A. 24:61-24).

“Common ownership or control” has the same meaning as at N.J.S.A. 24:61-3.

“Compassionate and Personal Use Acts” means the Jake Honig Compassionate Use Medical Cannabis Act, P.L. 2009, c. 307 (N.J.S.A. 24:61-1 et seq.), and the Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act, P.L. 2021, c. 16 (N.J.S.A. 24:61-31 et seq.).

“Conditional license” means a temporary cannabis business license that is issued pursuant to N.J.S.A. 24:61-36.a.

“Consumer” means a person 21 years of age or older who purchases, directly or through a cannabis delivery service, acquires, owns, holds, or uses cannabis items for personal use by a person 21 years of age or older. “Consumer” does not include a person who acquires, owns, holds, uses, or has any other involvement in cannabis items for resale to others.

“Consumption” means the act of ingesting, inhaling, or otherwise introducing cannabis items into the human body.

“Cultivate” means the propagation, germination, planting, growing, harvesting, drying, curing, and processing of cannabis.

“Curbside retail sale” means when a cannabis retailer sells a cannabis item to a consumer who is on the exterior of the facility on the cannabis retailer premises, which includes any parking lot and adjacent sidewalk that are located at the physical address listed on the cannabis business license, pursuant to N.J.A.C. 17:30-14.4.

“Delivery vehicle” means the vehicle used for the transport of cannabis items or related supplies between cannabis businesses or for the delivery of cannabis items to consumers.

“Dermal products” means oil, topical formulation, or products in a transdermal form intended for dermal application.

“Diversely owned business” means a license applicant or license holder where the entity has been certified, pursuant to the criteria at N.J.A.C. 17:30-6.4, as:

1. A minority-owned business pursuant to N.J.S.A. 52:27H-21.18 et seq.;
2. A women-owned business pursuant to N.J.S.A. 52:27H-21.18 et seq.;
3. A disabled-veterans-owned business, as defined at N.J.S.A. 52:32-31.2; or
4. Any combination of paragraphs 1, 2, or 3 above.

“Economically disadvantaged area” means a zip code that meets all of the following socioeconomic criteria:

1. Has a median income that is 80 percent or less of the average median household income in the State, as determined annually by the U.S. Census Bureau; and

2. Has a health uninsured rate that is at least 150 percent of the health uninsured rate in the State, as determined annually by the U.S. Census Bureau.

“Electronic smoking device” means a pre-filled, tamper-resistant, non-refillable, disposable “all-in-one” e-cigarette or pre-filled, tamper-resistant, non-refillable cartridge and separate battery used to heat and aerosolize or vaporize a cannabis product for inhalation.

“Employee” means a person who is not an owner, principal, or vendor-contractor that works for a cannabis business or testing laboratory and who receives remuneration or other tangible benefit from the cannabis business or testing laboratory for services performed for the benefit of the cannabis business or testing laboratory regarding the possession, cultivation, manufacture, transport, delivery, selling, or testing of, or other conduct associated with, cannabis pursuant to the Act and this chapter.

1. “Employee” includes managerial and non-managerial employees, as well as paid or unpaid interns.

“Entity” means an organization formed by one or more persons to conduct business, engage in a trade, or partake in similar activities.

“Executive Director” means the Executive Director of the Cannabis Regulatory Commission.

“Expanded alternative treatment center” or “expanded ATC” means a permitted ATC pursuant to P.L. 2019, c. 153 and N.J.A.C. 17:30A that is authorized to operate a cannabis business or businesses pursuant to the Act and this chapter, in addition to its medicinal cannabis operations.

“Financial consideration” means any thing of value that is given or received either directly or indirectly through sales, barter, trade, fees, charges, dues, contributions, or donations.

“Financial source” means a person or entity that lends any amount of capital to a cannabis business license applicant or license holder pursuant to a secured or unsecured financing agreement and who is not an owner, passive investor, or principal of such cannabis business license applicant or license holder.

“Financial source agreement” means any agreement, contract, arrangement, or other type of formal understanding between a financial source and a cannabis business license applicant or license holder where the financial source lends capital to the cannabis business license applicant or license holder pursuant to a secured or unsecured financing agreement and does not receive ownership interest, in accordance with N.J.A.C. 17:30-6.10.

“Finished cannabis product” means a cannabis product, packaged in its finished state, including any accompanying device and ready for sale to a consumer.

“Finished usable cannabis” means usable cannabis, packaged in its finished state including any accompanying wrapping, such as a pre-roll, and ready for sale to a consumer.

“Immature cannabis plant” means a cannabis plant that is not flowering.

“Immediate family” means the spouse, domestic partner, civil union partner, child, sibling, or parent of a person, whether biological or adopted, and shall include the siblings, parents, and children of the person’s spouse, domestic partner, or civil union partner, and the parents, spouses, domestic partners, or civil union partners of the person’s parents, siblings, and children.

“Impact zone” has the same meaning as defined at N.J.S.A. 24:61-33.

“Impact zone business” means a license applicant or license holder that meets the criteria at N.J.A.C. 17:30-6.5 and N.J.S.A. 24:61-36.e.

“Ingestible products” means cannabis product forms intended for oral administration and ingestion, including oil and sublingual, sublingual, buccal, and enteral forms.

“Inhalable products” means usable cannabis, solid cannabis concentrate, and vaporized formulation intended for inhalation.

“License” means an authorization or approval issued by the Commission pursuant to this chapter and the Act that authorizes a license holder to possess, transport, cultivate, manufacture, sell, test, deliver, or engage in other conduct in accordance with the Act and this chapter.

“License applicant” means a person or entity that is applying for, or has a pending application for, a conditional or annual cannabis business license or a testing laboratory license.

“License holder” or “licensee” means a person or entity registered to do business in New Jersey that holds a conditional or annual cannabis business license or a testing laboratory license.

“License holder representative” or “licensee representative” means an owner, principal, employee, agent, or representative of a cannabis business or testing facility license applicant or license holder, to the extent that the person acts in a representative capacity.

“Lot” means a specific quantity of cannabis product manufactured from the same usable cannabis during a specific time interval under similar conditions, using the same methods, equipment, and ingredients.

“Management services agreement” means any agreement, contract, arrangement, or other type of formal understanding between a management services contractor and a cannabis business license applicant or license holder where the management services contractor provides professional staffing, administrative, operational, advisory, or management services to a cannabis business license applicant or license holder in exchange for remuneration, but not an ownership interest, in accordance with N.J.A.C. 17:30-6.9.

“Management services contractor” means a third-party vendor-contractor person or entity supervised by the principals and owners of the cannabis business license applicant or license holder, that provides professional staffing, administrative, operational, advisory, or management services to a cannabis business license applicant or license holder in exchange for remuneration pursuant to a management services agreement, pursuant to N.J.A.C. 17:30-6.9.

“Manager” means a person who is an employee or volunteer that participates in control or decision-making authority over the direction, management, operations, or policies of a cannabis business or testing laboratory that is supervised by the principals and owners of the cannabis business or testing laboratory license applicant or license holder.

“Manufacture” means preparing, compounding, mixing, or converting usable cannabis to produce, make, or otherwise create a cannabis product.

“Manufacturing record” means documentation of each unique manufacturing event used to manufacture a cannabis product.

“Manufacturing supervisor” means a qualified individual who, by possession of a relevant and recognized degree, certificate, or professional standing, or by extensive knowledge, training, and experience, will be responsible for ensuring compliance with manufacturing requirements.

“Master formulation record” means the unique formulation record of individually manufactured cannabis products.

“Mature cannabis plant” means a harvestable female cannabis plant that is flowering.

“Medical cannabis” means cannabis in various forms dispensed to registered qualifying patients and designated caregivers pursuant to the Jake Honig Compassionate Use Medical Cannabis Act, P.L. 2019, c. 153.

“Microbusiness” has the same meaning as defined at N.J.S.A. 24:61-33 and operated in accordance with N.J.A.C. 17:30-6.7.

“Military veteran” means a person who served in any branch of the active or reserve component of the United States military and/or the National Guard of any state military service and who was discharged or released under conditions other than dishonorable.

“Minor” means a person who is under 18 years of age and who has not been married or previously declared by a court or an administrative agency to be emancipated.

“Noncommercial” means not dependent or conditioned upon the provision or receipt of financial consideration.

“Nonprofit entity” means a corporation, association, or organization that is:

1. Not conducted for pecuniary profit of any private shareholder or individual;

2. Established, organized, or chartered without capital stock pursuant to:

i. The provisions at Titles 15, 15A, 16, or 17 of the New Jersey Revised Statutes;

ii. A special charter; or

iii. Any similar general or special law of this or any other state;

3. Certified as exempt from the tax imposed by the Corporation Business Tax Act, as set forth at N.J.S.A. 54:10A-3.e; and

4. Certified as an entity that is not required to be a tax-exempt organization pursuant to 26 U.S.C. § 501(c)(3).

“Officer” means a person who is an officer of a cannabis business or testing laboratory license applicant or license holder pursuant to the entity’s formation documents or bylaws, or who participates in managing the cannabis business or testing laboratory license applicant, license holder, and license applicant’s or license holder’s cannabis business or testing laboratory. “Officer” includes, but is not limited to:

1. President, vice-president, secretary, treasurer, chief executive officer, chief financial officer, chief operating officer, or general counsel;

2. If the license applicant or license holder is a corporation, the officers of the corporation, in accordance with the articles of incorporation or the bylaws;

3. If the license applicant or license holder is a nonprofit entity, the chief executive officer, members of the governing board, and the officers, in accordance with the articles of incorporation or the bylaws;

4. If the license applicant or license holder is a partnership, the general partners, managing partners, and controlling partners of the partnership;

5. If the license applicant or license holder is a limited liability company, the manager-members of the limited liability company;

6. If the license applicant or license holder is a private capital fund, the members of the executive team of the private capital fund, and any other persons that control its investment or management; or

7. If the license applicant or license holder is a business organization other than the types listed at paragraphs 1 through 6 above, any person whose position with respect to the business organization, as determined under its formation documents or bylaws, without regard to the person’s title, are the functional equivalents of any of the positions described in this definition.

“Oil” means a cannabis concentrate, in viscous liquid form containing only cannabinoids, such as THC and cannabidiol, terpenes, and other substances that are extracted from the cannabis plant.

“Onsite assessment” means an inspection of any site conducted by an employee of the Commission to ensure compliance with the Act.

“Oral lozenge” means a solid oral cannabis-infused product that is designed to dissolve or disintegrate slowly in the mouth.

“Organic” means satisfying or meeting the organic program standards as defined at N.J.A.C. 2:78.

“Owner” means:

1. Any person or entity that holds at least a five percent aggregate ownership interest in a cannabis business or testing laboratory license applicant or license holder;

2. Where an entity, including a parent company, holds at least a five percent ownership interest in a cannabis business or testing laboratory license applicant or license holder, any person or entity that holds at least 10 percent aggregate ownership interest in or is a member of the executive team of such entity ***except that***, where such entity ***holding at least a five percent ownership interest in a cannabis business or the testing laboratory license applicant or license holder***:

i. Is ***[holding at least a five percent ownership interest in a cannabis business or the testing laboratory license applicant or license holder is]*** a nonprofit entity, any person or entity that is an officer in accordance with the articles of incorporation, or the bylaws or is a member of the governing board of such entity;

ii. Is a qualified institutional investor, any person or entity that holds at least 30 percent aggregate ownership interest in or is a member of the executive team of such entity; or

iii. Is a trust, any trustee of such entity; or

3. A significantly involved person of a cannabis business license applicant or license holder.

“Ownership interest” means a right to ownership or equity interest in an entity.

“Parties of interest” means any person or entity holding an interest, whether financial or otherwise, in a cannabis business license applicant or license holder.

“Passive investor” means a person or entity that:

1. Holds an aggregate ownership interest that is greater than zero percent but less than five percent in a cannabis business or testing laboratory license applicant or license holder; and

2. Does not have control or decision-making authority over the management, operations, or policies of such license applicant’s or license holder’s cannabis business or testing laboratory.

“Person” means a natural person.

“Personal use” or “personal use of cannabis” means:

1. The purchase, acquisition, holding, possession, or use of cannabis or cannabis items by a person 21 years of age or older; and

2. Does not include resale to other persons or entities.

“Physical plant” means the spaces, equipment, and infrastructure directly utilized by a cannabis business, within the premises, for cultivation, manufacturing, wholesaling, distributing, retail sale, or delivery.

“Premises” includes the following areas of a location controlled or operated by a cannabis business or testing laboratory:

1. All public and private enclosed areas at the location that are used in the business operated at the location, including, but not limited to, offices, kitchens, rest rooms, and storerooms;

2. Any areas outside a building that is used, or is to be used, for the cultivation, manufacturing, wholesaling, distributing, retail sale, or delivery of cannabis items;

3. For a location that is used, or is to be used, for the cultivation of cannabis outside a building, the entire lot or parcel that the license holder owns, leases, or has a right to occupy; and

4. A purely administrative office operated by a cannabis distributor or cannabis delivery service that is not used for the possession or handling of cannabis or cannabis items shall not be considered to be a cannabis business premises.

“Pressurized metered dose inhaler” means a device with pressurized propellant that administers a dose of aerosolized oil for inhalation.

“Principal” means a person or entity, including an officer or a board member, that participates in control or decision-making authority over the direction, management, operations, or policies of a cannabis business or testing laboratory license applicant, license holder, or license applicant’s or license holder’s cannabis business or testing laboratory.

1. A principal of a cannabis business or testing laboratory license applicant or license holder does not include a manager or a management services contractor.

2. Where a principal of a license applicant or license holder is an entity, any person or entity that holds at least 10 percent aggregate ownership interest in, or is a member of the executive team of, such entity is also a principal of such license applicant or license holder.

“Private capital fund” means:

1. A United States investment company that includes, but is not limited to, a venture capital fund, a hedge fund, or a private equity fund;

2. That is advised or managed by an investment adviser registered under 15 U.S.C. §§ 80b-1 et seq.; and

3. Does not include a qualified institutional investor.

“Project labor agreement” means a form of pre-hire collective bargaining agreement covering terms and conditions of a specific project, including labor issues and worker grievances associated with that project.

“Proof of New Jersey residency” means one or more of the following current, unexpired documents:

1. A New Jersey driver’s license that is in effect and is a valid State-issued identification card;

2. A Federal, State, or local government-issued identification card that shows the applicant’s name and New Jersey address;

3. A utility bill issued within the 90 days preceding the application date that shows the applicant’s name and New Jersey address;

4. Correspondence from the Internal Revenue Service or the New Jersey Division of Taxation issued within the year preceding the application date that shows the applicant’s name and New Jersey address;

5. A non-driver identification card issued by the New Jersey Motor Vehicle Commission that is in effect and good standing;

6. Federal, State, or local government correspondence issued to the applicant within the 90 days preceding the application date that shows the applicant’s name and New Jersey address;

7. Bank statements or credit card bills issued within each of the three months preceding the application date that show the applicant's name and New Jersey address;

8. Residential lease or rental agreements with the name of applicant as lessee or renter;

9. A deed or title to real residential property that is owner-occupied; or

10. Pay stubs from the prior three months that show the applicant's name and New Jersey address.

"Public place" means a place as defined at N.J.S.A. 24:61-33.

"Qualified institutional investor" means a United States purchaser of securities that has special status under financial regulation laws, specifically:

1. A bank as defined in Section 3(a)(6) of the Federal Securities Exchange Act of 1934, as amended;

2. A bank holding company as defined in the Federal Bank Holding Company Act of 1956, as amended;

3. An insurance company as defined in Section 2(a)(17) of the Investment Company Act of 1940, as amended;

4. An investment company registered under Section 8 of the Investment Company Act of 1940, as amended;

5. An employee benefit plan or pension fund subject to the Federal Employee Retirement Income Security Act of 1974, excluding an employee benefit plan or pension fund sponsored by a license applicant or license holder or any of its owners;

6. A state or Federal government pension plan; or

7. A group comprised entirely of entities specified at paragraphs 1 through 6 above.

"Quality control" means a planned and systematic operation or procedure for ensuring the strength, quality, and purity of a cannabis product.

"Radio" means a system for transmitting sound without visual images, and includes broadcast, cable, on-demand, satellite, or Internet programming; and includes any audio programming downloaded or streamed through the Internet.

"Residual solvent" means a volatile organic chemical used in some methods of manufacturing cannabis concentrates that is not completely removed by a cannabis business's quality control standard operating procedures.

"Security alarm system" means any device or series of devices, including, but not limited to, a signal system interconnected with a radio frequency method, such as cellular, private radio signals or other mechanical or electronic device, used to detect an unauthorized intrusion.

"Serving" or "dose" means the measured quantity of a usable cannabis or cannabis product to be taken at one time.

"Signature" or "electronic signature" means either the name of one written by oneself or an electronic code, sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

"Significantly involved person" has the same meaning as at N.J.S.A. 24:61-33.

"Social equity business" means a license applicant or license holder that meets the requirements at N.J.A.C. 17:30-6.6.

"Television" means a system for transmitting visual images and sound that are reproduced on screens, and includes broadcast, cable, on-demand, satellite, or Internet programming. "Television" includes any video programming downloaded or streamed through the Internet.

"Testing laboratory" means an independent, third-party laboratory that is:

1. A "cannabis testing facility" that is licensed by the Commission pursuant to N.J.A.C. 17:30-18 to perform testing services, including analysis and certification of compliance with applicable health, safety, and potency standards, on usable cannabis for personal use and cannabis products pursuant to N.J.A.C. 17:30-19; or

2. A "medical cannabis testing laboratory" that is licensed by the Commission pursuant to N.J.S.A. 24:61-18 to perform testing services, including analysis and certification of compliance with applicable health, safety, and potency standards, on usable cannabis for medical use and medical cannabis products pursuant to N.J.S.A. 24:61-17.

"THC" means delta-9-tetrahydrocannabinol and its precursor, tetrahydrocannabinolic acid, the main psychoactive chemicals contained in the cannabis plant.

"Topical formulation" means a transcutaneous therapeutic cannabis-infused product in liquid form intended to be applied to the skin or hair, including an ointment, gel, cream, or lotion, comprised of oil, water, short carbon chains, alcohol, dimethylsulfoxide, polyethylene glycol, polypropylene glycol, glycerin, mineral, or mixtures thereof.

"Unusable cannabis" means cannabis seeds, stems, stalks, roots, or any part of the immature cannabis plant.

"Usable cannabis" means the dried leaves and flowers of the mature cannabis plant; but does not include the cannabis seeds, seedlings, stems, stalks, roots, or any part of the immature cannabis plant.

"Vaporized formulation" means oil or oil and one or more inactive ingredients in an electronic smoking device that is meant to be heated, aerosolized, and inhaled.

"Vendor-contractor" means a third-party person or entity that is separate from the cannabis business license applicant or license holder that provides goods, services, or intellectual property to a cannabis business license applicant or license holder in exchange for remuneration, but not ownership interest, pursuant to a contract or agreement. A vendor-contractor may include, but is not limited to:

1. A landlord that is leasing the land and/or building of a cannabis business premises or administrative office to a license applicant or license holder;

2. A contract counterparty that is leasing equipment used in the cultivation, manufacturing, retail sale, storage, transportation, or destruction of cannabis to a cannabis business license applicant or license holder;

3. A vendor providing materials;

4. An architect;

5. A construction; heating, ventilating, air conditioning, and refrigeration; plumbing; or lighting company;

6. A security company;

7. A lawyer or lobbyist;

8. An accountant; or

9. A consultant providing services, including license application preparation, and operation recommendations regarding cultivation, manufacturing, retail sale, storage, transportation, or destruction of cannabis.

"Visitor" means a person on the cannabis business or testing laboratory premises who does not possess a Cannabis Business Identification Card.

"Volunteer" means a person who is not an owner, principal, or vendor-contractor that works for a cannabis business who does not receive remuneration from the cannabis business for services performed for the benefit of the cannabis business regarding the possession, cultivation, manufacture, transport, delivery, selling of, or other conduct associated with cannabis pursuant to the Act and this chapter.

"Written report" means the report prepared by the testing laboratory about the analytical testing it performed and the results it obtained.

17:30-1.3 Construction and amendments

(a) This chapter shall be construed in accordance with generally accepted principles of statutory construction, including those set forth at N.J.S.A. 1:1-1.1 et seq.

(b) This chapter shall be liberally construed to permit the Commission to effectively carry out its statutory functions and to secure a just and expeditious determination of issues properly presented to the Commission.

(c) Nothing contained in this chapter shall be construed as to conflict with any provision of the Jake Honig Compassionate Use Medical Cannabis Act or the Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act, or any other applicable statute.

(d) Whenever any provision of this chapter requires that an act or event occur on a specified day or date, and such day or date falls on a Saturday, Sunday, or legal holiday, or on a day in which the State is closed as the result of a declared state of emergency, such provision shall be construed to refer to the next business day immediately following such day or date.

17:30-1.4 Severability and preemption

If any part, section, clause, paragraph, sentence, or provision of P.L. 2009, c. 307 (N.J.S.A. 24:61-1 et seq.), P.L. 2015, c. 158 (N.J.S.A. 18A:40-12.22 et seq.), P.L. 2019, c. 153 (N.J.S.A. 24:61-5.1 et seq.), or P.L. 2021, c. 16 (N.J.S.A. 24:61-31 et seq.), or its application to any person or circumstance shall be adjudged by any court of competent jurisdiction to be unconstitutional or otherwise invalid, that judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the section, clause, paragraph, sentence, or provision thereof directly involved in the controversy in which the judgment shall have been rendered.

SUBCHAPTER 2. CONSUMER AND LICENSE HOLDER PROTECTIONS; CONSUMER PROHIBITIONS

17:30-2.1 Consumer and license holder criminal protections

(a) Pursuant to N.J.S.A. 24:61-51.a, persons and licensed cannabis businesses and testing laboratories shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, solely for conduct permitted pursuant to P.L. 2021, c. 16 (N.J.S.A. 24:61-31 et seq.).

1. Nothing in this subchapter shall be construed to limit the authority of an agency or subdivision of any agency of this State to cooperate with or assist the government of the United States, or any agency thereof, or the government of another state, or agency thereof, in matters pertaining to illegal interstate trafficking of marijuana, hashish, cannabis, or cannabis items; and

2. Licensed cannabis businesses and testing laboratories and personnel remain subject to criminal prosecution for activities not authorized by the Act, this chapter, or the cannabis business or testing laboratory license.

(b) It is not unlawful, pursuant to N.J.S.A. 2C:35-10.a for:

1. A consumer to possess, display, purchase, transport, or transfer without remuneration for non-promotional, non-business purposes, where the cannabis item is obtained directly from a licensed cannabis retailer:

i. Up to one ounce of usable cannabis; or

ii. Up to the equivalent of one ounce of usable cannabis as a cannabis product in solid, liquid, or concentrate form;

2. A consumer to take delivery of, or consume, a lawfully possessed cannabis item in a place where it is not prohibited to do so; or

3. Another person to assist a consumer in engaging in any of the acts described at (b)1 and 2 above, provided that the assistance being provided is with the consumer's consent and without remuneration.

(c) It is not unlawful, and shall not be a criminal offense, in accordance with N.J.S.A. 2C:35-10.b, for cannabis business or testing laboratory personnel, as applicable, to act within the scope of authority provided by a license issued pursuant to the Act and this chapter.

(d) It is not unlawful, in accordance with N.J.S.A. 2C:35-10.b, for a property owner that is at least 21 years of age acting within the scope of authority provided by a license, to lease, or otherwise allow the use of, property for the operation of a cannabis business.

(e) Notwithstanding the provisions of N.J.S.A. 24:61-52, until such time that the Commission, in consultation with the Police Training Commission established pursuant to N.J.S.A. 52:17B-70, develops standards for a Workplace Impairment Recognition Expert certification, no physical evaluation of an employee being drug tested in accordance with N.J.S.A. 24:61-52 shall be required.

17:30-2.2 Consumer and under-age person prohibitions

(a) Nothing in this chapter is intended to allow driving under the influence of cannabis items or driving while impaired by cannabis items or to supersede laws related to driving under the influence of marijuana or cannabis items or driving while impaired by marijuana or cannabis items.

(b) Nothing in this chapter is intended to permit the transfer of cannabis items, with or without remuneration, to a person under 21 years of age or to allow a person under 21 years of age to purchase, possess, use, transport, grow, or consume cannabis items.

(c) Nothing in this chapter shall prohibit a landlord from prohibiting, or otherwise regulating the consumption, use, display, transfer, distribution, sale, or transportation of cannabis items on or in that property, or portion thereof.

(d) Nothing in this chapter is intended to permit any person to possess, consume, use, display, transfer, distribute, sell, transport, grow, or manufacture cannabis or cannabis items in a school, hospital, detention facility, adult correctional facility, or youth correctional facility.

(e) Nothing in this chapter is intended to permit the smoking, vaping, or aerosolizing of cannabis items in any place in which a Federal, State, or local law prohibits the smoking of tobacco.

(f) Pursuant to N.J.S.A. 2C:35-10.d, a person under 21 years of age shall not purchase, acquire, accept, or consume a cannabis item, or attempt to do so.

1. A person under 21 years of age shall not enter, or attempt to enter, a cannabis business premises, unless accompanied by and supervised by a parent or legal guardian or otherwise permitted by law.

17:30-2.3 Consumer and license holder civil protections

(a) Pursuant to N.J.S.A. 24:61-51.a, persons and licensed cannabis businesses and testing laboratories shall not be subject to penalty in any manner, or denied any right or privilege, including, but not limited to, civil liability or disciplinary action by a business, occupational, or professional licensing board or bureau, solely for conduct permitted pursuant to the Act.

1. Licensed cannabis businesses and testing laboratories and personnel remain subject to civil or criminal penalties for their activities not authorized pursuant to the Act, this chapter, the Commission, or by the cannabis business or testing laboratory license.

(b) Nothing in this chapter shall be construed to limit any privileges or rights of a registered qualifying patient, designated caregiver, institutional caregiver, or alternative treatment center, as provided in the Jake Honig Compassionate Use Medical Cannabis Act, P.L. 2009, c. 307 (N.J.S.A. 24:61-1 et seq.), or P.L. 2015, c. 158 (N.J.S.A. 18A:40-12.22 et seq.), concerning the use of medical cannabis and medical cannabis products.

(c) Pursuant to N.J.S.A. 24:61-49, a financial institution shall not engage in discriminatory activities with respect to the banking activities of a cannabis business or a person associated with a cannabis business.

(d) Pursuant to N.J.S.A. 24:61-53, no contract shall be unenforceable on the basis that manufacturing, distributing, selling, dispensing, possessing, or using any cannabis item is prohibited by Federal law.

(e) Notwithstanding the provisions at N.J.S.A. 24:61-52, until such time that the Commission, in consultation with the Police Training Commission established pursuant to N.J.S.A. 52:17B-70, develops standards for a Workplace Impairment Recognition Expert certification, no physical evaluation of an employee being drug tested in accordance with N.J.S.A. 24:61-52 shall be required.

SUBCHAPTER 3. ORGANIZATION AND OPERATION OF THE COMMISSION

17:30-3.1 Powers, duties, and responsibilities

(a) The Commission shall assume all powers, duties, and functions with regard to the regulation and oversight of activities authorized pursuant to the Act.

(b) The Commission shall exercise all powers incidental, convenient, or necessary to enable the Commission to administer or carry out the provisions of the Act, or any other law of this State that charges the Commission with a duty, function, or power related to personal use cannabis. Powers include, but are not limited to:

1. Issuing subpoenas;

2. Compelling attendance of witnesses;

3. Administering oaths;

4. Certifying official acts;

5. Taking depositions as provided by law;

6. Compelling the production of books, payrolls, accounts, papers, records, documents, testimony, products, equipment, devices, supplies, and waste;

7. Requesting information from cannabis businesses and testing laboratories in order to assess the impact and effectiveness of the Act; and

8. Establishing fees in addition to the application, licensing, and renewal fees, provided that any fee established by the Commission is reasonably calculated not to exceed the cost of the activity for which the fee is charged.

(c) The Commission may exercise the power to purchase, seize, possess, and dispose of cannabis and cannabis items as is necessary to ensure compliance with and enforcement of the provisions of the Act, and any rule adopted pursuant thereto.

(d) The Commission may sue, and be sued, in any court and employ legal counsel to represent the Commission in any proceeding to which it is a party and render legal advice to the Commission upon its request.

(e) The Commission may contract for the services of professional, technical, and operational personnel and consultants as may be necessary to the performance of its responsibilities.

17:30-3.2 Expenses, grants, contributions, use of fees

(a) The Commission may incur additional expenses within the limits of funds available to it in order to carry out its duties, functions, and powers under the Act.

(b) The Commission may accept, from any governmental department or agency, public or private body or any other source, grants or contributions to be used in carrying out the purposes of P.L. 2009, c. 307 (N.J.S.A. 24:6I-1 et seq.).

(c) All fees collected pursuant to P.L. 2009, c. 307 (N.J.S.A. 24:6I-1 et seq.), including those from qualifying patients, designated and institutional caregivers, and initial, modification, and renewal applications for ATCs shall be used to offset the cost of the Commission's administration of the provisions of P.L. 2009, c. 307 (N.J.S.A. 24:6I-1 et seq.).

17:30-3.3 Commission activities associated with the personal use of cannabis

(a) The Commission shall:

1. Regulate the purchase, sale, cultivation, production, manufacturing, transportation, and delivery of cannabis or cannabis items;

2. Grant, refuse, suspend, revoke, cancel, or take actions otherwise limiting licenses or conditional licenses for the sale, cultivation, production, or manufacturing of cannabis items, or other licenses in regard to cannabis items, and to permit, in accordance with this chapter, the transfer of a license between persons or entities;

3. Adopt, amend, or repeal rules as necessary to carry out the intent and provisions of the Act;

4. Adopt rules regulating and prohibiting the advertising of cannabis items in a manner that is appealing to minors, that promotes excessive use, that promotes illegal activity, or that otherwise presents a significant risk to public health and safety; and

5. Regulate the use of cannabis and cannabis items for scientific, pharmaceutical, manufacturing, mechanical, industrial, and other purposes.

17:30-3.4 Social equity excise fee

(a) In accordance with N.J.S.A. 54:47F-1, the Commission shall impose a Social Equity Excise Fee on the sale or transfer of usable cannabis or unusable cannabis by a cannabis cultivator to any other cannabis establishment other than another cannabis cultivator*, **including a cannabis manufacturer, cannabis wholesaler, or a cannabis retailer owned by the same license holder as the cannabis cultivator***.

1. Such fee shall be implemented in consultation with, and collected by, the Division of Taxation, in the Department of the Treasury.

(b) Effective August 19, 2021, until the fee is adjusted pursuant to (c) below, the Social Equity Excise Fee shall be 1/3 of one percent of the Statewide average retail price of an ounce of usable cannabis for consumer purchase, during the current calendar year, as determined by the Commission.

(c) Beginning nine months following the first sale or transfer of usable cannabis subject to a Social Equity Excise Fee by a cannabis cultivator that is not part of an expanded ATC and continuing annually, the excise fee shall be as follows:

1. If the average retail price of an ounce of usable cannabis in the current calendar year is \$350.00 or more, the excise fee shall be:

- i. \$10.00 per ounce of usable cannabis; and
- ii. \$3.00 per ounce of unusable cannabis sold for the purpose of manufacturing;

2. If the average retail price of an ounce of usable cannabis in the current calendar year is at least \$250.00, but less than \$350.00, the excise fee shall be:

- i. \$30.00 per ounce of usable cannabis; and
- ii. \$8.00 per ounce of unusable cannabis sold for the purpose of manufacturing;

3. If the average retail price of an ounce of usable cannabis in the current calendar year is at least \$200.00, but less than \$250.00, the excise fee shall be:

- i. \$40.00 per ounce of usable cannabis; and
- ii. \$12.00 per ounce of unusable cannabis sold for the purpose of manufacturing; and

4. If the average retail price of an ounce of usable cannabis in the current calendar year is less than \$200.00, the excise fee shall be:

- i. \$60.00 per ounce of usable cannabis; and
- ii. \$18.00 per ounce of unusable cannabis sold for the purpose of manufacturing.

(d) Beginning when the Commission adjusts the Social Equity Excise Fee in accordance with (c) above, the Commission shall provide notice of the fee in the New Jersey Register by November 1 of the current year, to be effective on January 1 of the next calendar year.

(e) An excise fee pursuant to this section shall be per ounce of usable cannabis sold or transferred by a cannabis cultivator. Any fractional portion of an ounce sold or transferred shall be subject to the fee on a proportional basis.

(f) An excise fee pursuant to this section shall not apply to sales to transfers of usable cannabis for use in medicinal cannabis dispensing pursuant to the Jake Honig Compassionate Use Cannabis Act, P.L. 2009, c. 307 (N.J.S.A. 24:6I-1 et seq.), or P.L. 2015, c. 158 (N.J.S.A. 18A:40-12.22 et seq.).

17:30-3.5 Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Fund

(a) Pursuant to the Act, all fees and penalties collected by the Commission, all tax revenues of retail sales of cannabis items, all tax revenues collected pursuant to the provisions of the Jake Honig Compassionate Use Medical Cannabis Act, P.L. 2009, c. 307 (N.J.S.A. 24:6I-1 et seq.), and all revenues collected for the Social Equity Excise Fee shall be deposited in a special non-lapsing fund, which shall be known as the Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Fund (the Fund), with 15 percent of the monies deposited placed into an account within the Fund to be known as the Underage Deterrence and Prevention Account.

(b) Monies in the Fund shall be appropriated in accordance with N.J.S.A. 24:6I-50.

17:30-3.6 Designated inventory tracking system

(a) The Commission has the authority to require all ATCs and cannabis businesses to use the inventory tracking system designated by the Commission to track the cultivation, manufacturing, distribution, storage, transportation, and retail sale of medical cannabis and cannabis items pursuant to N.J.S.A. 24:6I-22.c.

(b) An ATC or a cannabis business shall:

1. Use plant tags and labels compatible with the Commission-designated system; and

2. Be responsible for any costs associated with the acquisition of such compatible plant tags and for any costs associated with additional software or hardware that ensures compatibility with the Commission-designated system.

17:30-3.7 Waiver

(a) The Commission, in accordance with the general purposes and intent of the Act and this chapter, may waive a regulatory requirement regarding the operations of a cannabis business, to the extent such waiver does not conflict with any other State law, if in the Commission's determination, such a waiver:

1. Is necessary to achieve the purpose of the Act;
2. Is necessary to provide access to cannabis items to consumers; and
3. Does not create a danger to the public health, safety, or welfare.

17:30-3.8 Petitions for rulemaking; purpose and scope

Unless otherwise provided in this chapter, this subchapter shall constitute the Cannabis Regulatory Commission's rules regarding the disposition of all requests for rulemaking pursuant to N.J.S.A. 52:14B-4(f).

17:30-3.9 Petitions for rulemaking; procedure

(a) As used in this section, "initiate a rulemaking proceeding" means the submission of a notice of proposal to the Office of Administrative Law for publication in the next available issue of the New Jersey Register.

(b) Any interested person may petition the Commission to promulgate, amend, or repeal any rule of the Commission. Such petition must be in writing, signed by the petitioner, and must state clearly and concisely:

1. The full name and address of the petitioner;
2. The reasons for the request;
3. A description of the substance or nature of the rulemaking that is requested and the draft text of the proposed rule or rules;
4. A complete disclosure of the petitioner's interest in the request, including, without limitation, any relevant organizational affiliation or economic interest and the financial effect upon petitioner if the request were brought into effect;
5. The statutory authority under which the Commission may take the requested action; and
6. Any existing Federal or State statutes and rules that the petitioner believes may be pertinent to the request.

(c) Petitions for the promulgation, amendment, or repeal of a rule by the Commission shall be captioned "Petition for Rulemaking Action" and shall be sent by email to crc.rules@crc.nj.gov or in hard copy addressed to:

Cannabis Regulatory Commission
Office of the Executive Director
PO Box 216
Trenton, New Jersey 08625-0216

(d) Any document submitted to the Commission that is not in substantial compliance with this section shall not be deemed to be a petition for rulemaking requiring further agency action.

(e) Within 15 days of receipt of a petition in compliance with this section, the Commission will file a notice of petition with the Office of Administrative Law for publication in the New Jersey Register in accordance with N.J.A.C. 1:30-4.1(c). The notice will include the following:

1. The name of the petitioner;
2. The substance or nature of the rulemaking action that is requested;
3. The problem or purpose that is the subject of the request; and
4. The date the petition was received.

(f) Within 60 days following receipt of any such petition, the Commission shall:

1. Deny the petition, giving a written statement of its reasons;
2. Grant the petition and initiate a rulemaking proceeding within 90 days of granting the petition; or
3. Refer the matter for further deliberations which shall be concluded within 90 days of referring the matter for further deliberations. Upon conclusion of such further deliberations, the Commission shall either deny the petition and provide a written statement of its reasons or grant the petition and initiate a rulemaking proceeding within 90 days. The results of these further deliberations will be mailed to the petitioner and submitted to the Office of Administrative Law for publication in the New Jersey Register.

(g) Within 60 calendar days of receiving the petition, the Commission shall mail to the petitioner, and file with the Office of Administrative Law for publication in the New Jersey Register, a notice of action on the petition, which will include:

1. The name of the petitioner;
2. The New Jersey Register citation for the notice of petition, if that notice appeared in a previous New Jersey Register;
3. Certification by the Executive Director and Chair of the Commission that the petition was duly considered pursuant to law;
4. The nature or substance of the Commission's action upon the petition; and
5. A brief statement of reasons for the Commission's action.

17:30-3.10 Extension of public comment period on a proposed rule

(a) The Commission may extend the public comment period on a proposed rule whenever it determines an extension is appropriate.

(b) If, within 30 days of the publication of a notice of proposal, sufficient public interest is demonstrated in an extension of the time for submissions, the Commission shall provide an additional 30-day period for the receipt of submissions by interested parties. No notice of proposal shall be adopted until after the end of this 30-day extension, if provided.

(c) For purposes of this section, sufficient public interest for granting an extension of the public comment period exists when:

1. One hundred or more individuals have communicated the need for the extension of the public comment period in writing, legible and intelligible, to the Commission.

i. At least 50 of the individuals shall have specified in their written communications, an objection to at least one provision of the proposed rule.

ii. All written communications have been directed to the individual who has been designated, on behalf of the Commission, to receive comments in the notice of proposal.

(d) For the purposes of this section, a professional organization, law firm, corporation, partnership, association, or any other organization or groups of persons that submit(s) a request for an extension of the public comment period on behalf of a group of interested parties shall be considered one person.

SUBCHAPTER 4. INDEPENDENT STUDY; COMMISSION REPORTING

17:30-4.1 Independent study

(a) The Commission shall, no later than three years after the date it first organizes, contract with a public research university, as defined at section 3 at P.L.1994, c. 48 (N.J.S.A. 18A:3B-3), to conduct an independent study to review:

1. The Commission's organization;
2. The Commission's regulation and enforcement activities;
3. The overall effectiveness of the Commission as a full-time entity; and

4. Whether the regulation and oversight of medical cannabis or personal use cannabis could be more effectively and efficiently managed through a reorganization of the Commission, consolidation of the Commission within the Department of Health or another Executive Branch department, conversion to a part-time Commission, or the transfer of some or all the Commission's operations elsewhere within the Executive Branch.

(b) The Commission shall submit the findings of the independent study, along with the Commission's recommendations for appropriate executive, administrative, or legislative action, to the Governor and, pursuant to section 2 at P.L. 1991, c. 164 (N.J.S.A. 52:14-19.1), to the Legislature.

17:30-4.2 Commission reporting

The Commission shall report, to the Governor and the Legislature, information in accordance with N.J.S.A. 24:6I-12 and Commission bylaws.

SUBCHAPTER 5. MUNICIPAL AUTHORITY

17:30-5.1 Municipal authority

(a) A municipality may enact an ordinance or regulation that is not in conflict with the Act or this chapter, and may amend such ordinance or regulation:

1. That establishes a numerical limit on the number of cannabis businesses, provided that any such ordinance or regulation shall specify the maximum number of each class of license that is allowed within the municipality and for which the municipality has established a numerical limit;

2. That governs the location, manner, and times of operation of cannabis businesses, except for the times of operation of a cannabis delivery service or distributor, including an ordinance or regulation that requires a cannabis business premises to be a certain distance from the closest church, synagogue, temple, or other place used exclusively for

religious worship; or from the closest school, playground, park, or child daycare facility;

3. That establishes civil penalties for a violation of such ordinance or regulation; or

4. That imposes a separate local licensing requirement.

(b) A municipality may enact and amend an ordinance or regulation to prohibit the operation of any one or more classes of cannabis business within the jurisdiction of the municipality pursuant to N.J.S.A. 24:6I-45.b, and such prohibiting ordinance shall apply throughout the municipality.

1. Such ordinance or regulation may include the authorization or prohibition of outdoor cultivation.

(c) If a municipality does not enact a prohibiting ordinance pursuant to N.J.S.A. 24:6I-45.b, for any class of cannabis business that is not otherwise prohibited from operating within the municipality:

1. The cultivation, manufacturing, selling, and reselling of usable cannabis and cannabis products and the operations to transport in bulk cannabis items by a cannabis cultivator, cannabis manufacturer, cannabis wholesaler, cannabis distributor, or cannabis delivery service shall be permitted uses in all industrial zones of the municipality; and

2. The selling of cannabis items to consumers from a retail store by a cannabis retailer shall be a conditional use in all commercial zones or retail zones, subject to meeting the conditions set forth in any applicable zoning ordinance or receiving a variance from one or more of those conditions in accordance with the Municipal Land Use Law, P.L. 1975, c. 291 (N.J.S.A. 40:55D-1 et seq.).

(d) Within 28 days of receipt of a license application from the Commission, a municipality shall inform the Commission whether such license application complies with its ordinance or regulation, as may be applicable. Failure of a municipality to respond to the Commission within the designated time period may result in the Commission deeming the license application in compliance with any pertinent ordinance or regulation.

(e) A municipality may provide input to the Commission as to the municipality's preferences for licensure pursuant to N.J.A.C. 17:30-6.3.

(f) A municipality and its governing body entrusted with zoning or the regulation of land use may provide zoning approval of a proposed location of a license applicant's cannabis business premises, which shall consist of a letter or affidavit from appropriate officials of the municipality stating that the location will conform to municipal zoning requirements allowing for activities related to the operations of the proposed cannabis business to be conducted at the location, and any variances granted concerning the operation of an cannabis business.

1. Such municipality and its governing body and appropriate officials entrusted with zoning or the regulation of land use shall consider whether a cannabis business's premises conforms to municipal zoning requirements based on the nature of the cannabis business's primary business operations.

(g) A municipality may demonstrate proof of local support for the suitability of a cannabis business's proposed location by indicating that the intended location is appropriately located or otherwise suitable for activities related to the operations of the proposed cannabis business:

1. Where the municipality has a governing body, with the adoption of a resolution by the governing body; or

2. Where the municipality has no governing body, with a written letter of support from the municipality's executive.

(h) A municipality may provide written approval for a proposed expanded ATC pursuant to N.J.S.A. 24:6I-46.a(3)(a)(ii).

(i) A county, municipality, or county or municipal government official shall neither solicit nor receive from a cannabis business, and a cannabis business shall not offer, anything of value, including a contribution to a political campaign, political party, or political organization as part of a host community agreement, or demand that any payment be made to a designated official, group, or organization in exchange for zoning approval, proof of local support, or written approval for such cannabis business, or take any other action that would violate N.J.S.A. 40A:9-22.5 of the Local Government Ethics Law.

(j) A municipality may adopt an ordinance imposing a transfer tax or user tax on the sale of any usable cannabis or cannabis products by a cannabis establishment located within the municipality pursuant to N.J.S.A. 40:48I-1, which may include: sales between cannabis

establishments, sales of cannabis items to consumers, or any combination thereof.

1. The rate of a transfer tax established shall be at the discretion of the municipality, but in no case shall a rate exceed two percent of the receipts from each sale by a cannabis cultivator; two percent of the receipts from each sale by a cannabis manufacturer; one percent of the receipts from each sale by a cannabis wholesaler; or two percent of the receipts from each sale by a cannabis retailer.

2. The chief financial officer of the municipality shall collect and administer any transfer tax or user tax imposed by ordinance pursuant to N.J.S.A. 40:48I-1, including enforcing the payment of delinquent taxes.

(k) Any State or local law enforcement or regulatory authority or agency may request that cannabis business personnel performing a transport or delivery present a Cannabis Business Identification Card or a copy of a transport order or delivery request.

(l) In no case may a municipality restrict the transportation of cannabis items through, or delivery of cannabis items within, the municipality by adopting an ordinance or any other measure. Any such restriction shall be deemed void and unenforceable.

(m) In accordance with N.J.S.A. 40:55D-18, fees established by a municipality for issuing zoning permits, certifications, or authorizations to cannabis business applicants must be reasonably based on the administrative costs for the issuance of such municipal permit, certificate, or authorization.

SUBCHAPTER 6. CANNABIS BUSINESS LICENSING GENERAL TERMS

17:30-6.1 Cannabis business licensing process; application priority review and approval

(a) The Commission shall, annually, evaluate whether the number of each class of cannabis business is sufficient to meet the market demands of the State and whether the price and availability of cannabis items are discouraging purchases from the illegal market.

(b) The Commission shall accept new license applications and issue additional licenses, as it deems necessary to meet the demands identified at (a) above, except as otherwise provided in this section and section 33 of P.L. 2021, c. 16 (N.J.S.A. 24:6I-46).

1. During the 24-month period after February 22, 2021, the Commission shall not allow more than 37 licensed cannabis cultivators. This number shall include any expanded ATCs.

i. Microbusinesses with cannabis cultivator licenses, including microbusinesses that have converted into standard cannabis businesses in accordance with N.J.A.C. 17:30-7.15, shall not count towards this cannabis cultivator license limit of 37; and

ii. The Commission may accept, review, score, and process additional applications for cannabis cultivators during the 24-month period, provided that there are only 37 cannabis cultivators with licenses.

2. Following the 24-month period after February 22, 2021, the Commission shall review the limit of 37 cannabis cultivator licenses and issue new cannabis cultivator licenses to meet the market demands of the State and may accept new applications as it deems necessary to meet those demands.

3. The Commission shall issue a sufficient number of cannabis manufacturer, cannabis retailer, cannabis wholesaler, cannabis distributor, and cannabis delivery service licenses to meet the market demands of the State and may accept new applications for such additional licenses as it deems necessary to meet those demands.

4. The Commission shall seek to ensure that cannabis retailers have adequate access to licensed sources of cannabis items to discourage purchases from the illegal market.

(c) The Commission may specify the type or class of conditional or annual cannabis business license applications or testing laboratory license applications it shall accept at any given time and when it shall accept them. The Commission may set any geographic limitations on the acceptance of license applications, provided such limitations are consistent with meeting the market demands of the State.

1. During the period of time that the Commission is accepting a specific class of conditional or annual cannabis business license applications, the Commission shall accept license applications on a continuous rolling

basis, which shall be scored, reviewed, and approved in accordance with this chapter.

2. The Commission shall provide notice of the initial acceptance of license applications in the New Jersey Register, on the Commission website, to the Commission email list, and at a Commission public meeting. Any subsequent changes to the type or class of license applications accepted shall be noticed in the New Jersey Register, on the Commission website, to the Commission email list, and at a Commission public meeting.

3. The notice identified at (c)2 above regarding the acceptance of license applications shall include:

- i. The types or classes of license applications being accepted;
- ii. The criteria for eligibility for such license applications;
- iii. Any geographic limitations on the acceptance of licenses; and
- iv. If the number of available licenses of a certain class is capped or limited, the number of available licenses of such class.

4. Microbusinesses, including microbusinesses that have converted into standard cannabis businesses in accordance with N.J.A.C. 17:30-7.15, shall not count towards any limitation on the number of cannabis business licenses issued by the Commission.

(d) The Commission shall review, score, and approve conditional and annual cannabis business license applications and issue licenses to applicants that receive a full score or greater, and shall have the full authority to establish the priority by which conditional and annual cannabis business license applications and applicants are reviewed, scored, approved, and issued, such that:

1. Social equity businesses, diversely owned businesses, and impact zone businesses always have priority over other license applicants;
2. Except where it conflicts with (d)1 above, conditional license applicants have priority over annual license applicants;
3. Except where it conflicts with (d)1 above, microbusiness license applicants have priority over standard cannabis business license applicants;
4. Except where it conflicts with (d)1 above, license applicants given bonus points pursuant to N.J.S.A. 24:61-36.d(2) have priority over license applicants with no bonus points; and
5. The priority of the review, scoring, and approval of license applications and issuance of licenses is consistent with meeting the market demands of the State, the Act, and this chapter.

17:30-6.2 Cannabis business licensing lottery

Where the number of applicants with the same number of points in a cannabis business license class or group is greater than the remaining number of licenses available from the Commission, the Commission may conduct a public lottery among the eligible license applicants in such class or group that is impartial, random, and in a format selected by the Commission.

17:30-6.3 Municipal preference

(a) A municipality may submit its preference(s) for the issuance of licenses to cannabis businesses by writing to the Commission pursuant to the notice required at N.J.A.C. 17:30-6.1(c).

1. Such notice shall be received by the Commission within 28 days of receipt of an application and shall not conflict with any letter of support issued to a license applicant pursuant to N.J.A.C. 17:30-7.10(b)9.

17:30-6.4 Diversely owned businesses

(a) Until such time that the Commission determines that it will develop its own certification process, a “diversely owned business” means a license applicant or a license holder that has been certified as a minority-owned business, as a woman-owned business, as a disabled-veteran-owned business, or as any combination thereof, by the Division of Revenue and Enterprise Services in the Department of the Treasury.

1. A minority-owned business or minority-owned business enterprise is a business that meets the requirements at N.J.S.A. 52:27H-21.18 et seq., including, but not limited to, that:

- i. At least 51 percent of the ownership interest is held by persons who are minorities; and
- ii. The management and daily business operations are controlled by one or more of the minorities who own it.

2. A woman-owned business or women-owned business enterprise is a business that meets the requirements at N.J.S.A. 52:27H-21.18 et seq., including, but not limited to, that:

- i. At least 51 percent of the ownership interest is held by persons who are women; and
- ii. The management and daily business operations are controlled by one or more of the women who own it.

3. A disabled-veterans-owned business or disabled veteran-owned business enterprise is a business that meets the requirements at N.J.S.A. 52:32-31.2, including, but not limited to, that:

- i. At least 51 percent of the ownership interest and control is held by persons who are disabled veterans; or
- ii. The business has been officially verified by the U.S. Department of Veterans Affairs as a service-disabled veteran-owned small business.

(b) A diversely owned business shall submit, in its cannabis business license application, the certification from the Division of Revenue and Enterprise Services, Department of Treasury, pursuant to N.J.S.A. 52:27H-21.20 and 52:32-31.8.

(c) The decision of the Division of Revenue and Enterprise Services to issue a certification in accordance with the rules of the New Jersey Department of the Treasury shall not be substituted by the Commission.

17:30-6.5 Impact zone business

(a) An impact zone business means a license applicant or license holder:

1. That operates a cannabis business that is located, or intended to be located, within an impact zone;
2. Where more than 50 percent of the ownership interest is held by a current resident or residents of an impact zone who have resided there for three or more consecutive years at the time of application; or
3. That presents a plan, along with an attestation, to ensure that:
 - i. At least 25 percent of its employees reside in any of the State’s impact zones; and
 - ii. Among the employees who reside in impact zones, at least 25 percent reside in the impact zone nearest to, ***or within a 25-mile radius of***, the cannabis business’s location or intended location.

(b) For a license issued based upon an application with an impact zone employment plan pursuant to (a)3 above, failure of an impact zone business to meet the requisite percentages of employees from an impact zone within 90 days of the commencement of operations of a cannabis business may result in the suspension or revocation of a license issued.

(c) An impact zone business shall submit, in its cannabis business license application or renewal application, documentation verifying its impact zone business status, including evidence and attestations from any qualifying owner, passive investor, or employee proving the qualification of the person pursuant to the criteria at (a) above.

17:30-6.6 Social equity business

(a) “Social equity business” means a license applicant or license holder that meets one of the following criteria:

1. More than 50 percent of the ownership interest of the license applicant or license holder is held by one or more persons that demonstrate ***[one]* *all*** of the following criteria:

- i. At the time the initial application is submitted, have lived in an economically disadvantaged area for five of the 10 preceding years; and
- ii. Are, at the time the initial application is submitted and based on the preceding year’s income, a member of a household that has a household income that is 80 percent or less of the average median household income in the State, as determined annually by the U.S. Census Bureau; or

2. More than 50 percent of the ownership interest of the license applicant or license holder is held by one or more persons who are eligible to be pronounced rehabilitated in accordance with N.J.A.C. 17:30-7.12(e), if necessary, and have been adjudicated delinquent for or convicted of, whether expunged or not, in this State, another state, or the Federal government:

- i. At least two marijuana- or hashish-related disorderly persons offenses; or
- ii. At least one marijuana- or hashish-related indictable offense.

(b) A social equity business shall submit, in its cannabis business license application or renewal application, documentation verifying its social equity business status, including an attestation from any qualifying

owner or passive investor attesting to the qualification of the person pursuant to the criteria at (a) above.

17:30-6.7 Microbusiness

(a) "Microbusiness" means a license applicant's or license holder's cannabis business that:

1. Has a smaller footprint than a standard cannabis business, with respect to its business operations, capacity, and quantity of product, pursuant to N.J.S.A. 24:6I-36.f and this section.

(b) There shall not be any cap, limit, or other numerical restriction on the number of microbusinesses authorized to operate a cannabis business, including microbusinesses that have converted into standard cannabis businesses in accordance with N.J.A.C. 17:30-7.15. This prohibition on a cap, limit, or other numerical restriction shall apply to every class of license issued.

(c) A microbusiness applicant for a conditional or annual license or a microbusiness license holder:

1. Shall pay 50 percent of the amount of a standard license application, renewal, or other fee;

2. Shall not be required to have an attestation signed by a bona fide labor organization stating that the license applicant has entered into a labor peace agreement with such bona fide labor organization in any license application or as an ongoing material condition of maintaining a license;

3. Shall meet all the following requirements regarding owners, passive investors, principals, and employees:

i. One hundred percent of the ownership interest in the microbusiness license applicant or license holder shall be held by current New Jersey resident(s) who have resided in the State for at least the past two consecutive years, at the time of application;

ii. At least 51 percent of the owners; 51 percent of the principals; 51 percent of the employees; or 51 percent of the total number of persons included in the microbusiness license applicant or license holder, including all owners, principals, and employees, shall be residents of either the municipality in which the microbusiness is or will be located, or of a municipality directly bordering such municipality, at the time of the application; and

iii. The microbusiness license applicant or license holder shall employ no more than 10 employees at one time, regardless of the number of hours worked by the employees;

4. That is a microbusiness cannabis establishment shall have its entire microbusiness physical plant occupy an area of no more than 2,500 square feet;

5. That is a microbusiness cannabis cultivator shall:

i. Have a total ***mature*** cannabis ***plant*** grow canopy area that does not exceed 2,500 square feet, measured on a horizontal plane, and 24 feet, measured vertically above that plane; and

ii. Possess a total of no more than 1,000 mature cannabis plants each month;

6. That is a microbusiness cannabis manufacturer, shall acquire no more than 1,000 pounds of usable cannabis each month;

7. That is a microbusiness cannabis retailer, shall acquire for retail sale no more than 1,000 pounds of usable cannabis, or the equivalent amount in any form of cannabis product, or any combination thereof, each month; and

8. That is a microbusiness cannabis wholesaler, shall acquire for resale no more than 1,000 pounds of usable cannabis, or the equivalent amount, in any form of cannabis product, or any combination thereof, each month.

(d) A microbusiness holding an annual license shall not sell or transfer its license.

(e) A microbusiness holding an annual license may submit an application to convert from a microbusiness to a standard cannabis business and expand beyond the requirements of this section, pursuant to N.J.A.C. 17:30-7.15.

17:30-6.8 Limitations on license applicants, license holders, owners, principals, passive investors, financial sources, management services contractors, and vendor-contractors

(a) The license holder is the party that has responsibility and liability for the conduct of the cannabis business(es).

(b) A license applicant or license holder shall not be established as a trust.

(c) A license applicant or license holder shall only have, at most, one open and pending cannabis business license application for each class of license at any one time and may only hold cannabis business licenses in accordance with the limitations in this section.

1. A license applicant or license holder may abandon a license application, by providing written notice to the Commission, in order to accept another license or submit a new license application.

(d) During the 24-month period following February 22, 2021:

1. A license holder and its owners and principals may concurrently hold one cannabis cultivator and one cannabis manufacturer license;

2. A license holder and its owners and principals may concurrently hold one cannabis retailer license and one cannabis delivery service license;

3. A license holder and its owners and principals may concurrently hold one cannabis wholesaler license and one cannabis distributor license; and

4. A license holder and its owners and principals that have an expanded ATC license may concurrently hold a cannabis cultivator, cannabis manufacturer, a cannabis retailer license, additional cannabis retail licenses for each satellite dispensary, and a cannabis delivery service license; or a cannabis wholesaler license and a cannabis distributor license.

(e) After the end of the 24-month period following February 22, 2021:

1. A license holder and its owners and principals may concurrently hold one cannabis cultivator, one cannabis manufacturer, one cannabis retailer, and one cannabis delivery service license;

2. A license holder and its owners and principals may concurrently hold one cannabis wholesaler license and one cannabis distributor license; and

3. A license holder and its owners and principals that have an expanded ATC license may concurrently hold a cannabis cultivator license, a cannabis manufacturer license, a cannabis retailer license, additional cannabis retail licenses for each satellite dispensary, and a cannabis delivery service license; or a cannabis wholesaler license and a cannabis distributor license.

(f) A license holder holding a testing laboratory license may hold up to three testing laboratory licenses, but may not hold any cannabis business licenses.

(g) A person or entity shall be an owner of only one license applicant or license holder.

1. Where a person is an owner of a license applicant or license holder, that person's spouse, domestic partner, civil union partner, child, sibling, or parent may only be an owner of such license applicant or license holder and shall not be an owner of another license applicant or license holder.

(h) A person or entity may hold an ownership interest as a passive investor in more than one cannabis business or testing laboratory license applicant or license holder.

(i) An owner, notwithstanding the amount of capital or assets that such owner contributes to a cannabis business or testing laboratory license applicant or license holder, shall enjoy the customary incidents of ownership and shall share in the profits and losses of such cannabis business or testing laboratory license applicant or license holder proportionate to the owner's percentage of ownership interest in such license applicant or license holder.

(j) An ownership interest may be held directly or indirectly through an intermediary controlled by the holder, such as a shell company or holding company; the presence of such an intermediary shall not change the determination of the actual holder of the ownership interest.

1. An ownership interest may be in stock or securities or other forms;

2. An ownership interest may not include a security interest on a property, a lien, or an encumbrance; and

3. Mere receipt of a percent of revenue or profits in accordance with the terms of an agreement without a right to ownership or equity interest is not ownership interest.

(k) The majority share of the license applicant's ownership interest, including the ownership interest that qualifies it as a diversely owned business, social equity business, impact zone business, or microbusiness, shall remain the same from the date of submission of a conditional license conversion application or submission of an annual license application until two years after the commencement of cannabis business operations.

1. A transfer of ownership interest, in a license applicant from a deceased owner to their heir shall not be prohibited; and

2. A transfer of ownership interest in a license applicant from a deceased owner to their surviving spouse, domestic partner, or civil union partner, if the license was issued jointly to both the parties, shall not be prohibited.

(l) A person or entity shall be a principal of only one license applicant or license holder.

(m) A principal may have control or decision-making authority over a cannabis business or testing laboratory license applicant, license holder, cannabis business, or testing laboratory directly or indirectly through an intermediary controlled by the principal, such as a shell company or holding company; the presence of such an intermediary shall not change the determination of the actual person or entity exercising control or decision-making authority.

(n) Nothing in this chapter shall be construed to prohibit an employee or volunteer from working with more than one license applicant or license holder, at any or all of its cannabis business premises.

(o) An owner, passive investor, principal, employee, or volunteer of a cannabis business or testing laboratory license applicant or license holder shall be at least 21 years of age, except that a person less than 21 years of age who receives the transfer of ownership interest from a deceased owner or passive investor of a cannabis business or testing laboratory license applicant or license holder as an heir may be an owner or passive investor of a cannabis business or testing laboratory license applicant or license holder.

1. Such ownership interest shall be put into a trust with the heir as the beneficiary until the heir is at least 21 years of age.

(p) A management services contractor may contract with and provide management services to up to five license applicants or license holders.

(q) A license applicant or license holder or its owners or principals may not serve as a management services contractor.

(r) A financial source may provide funding to up to seven license applicants or license holders.

(s) A vendor-contractor may contract with and provide services to more than one license applicant or license holder during the licensing process and after the issuance of license(s).

(t) Remuneration provided by a cannabis business license holder to a management services contractor, financial source, or vendor-contractor may include either a flat fee or a percent of revenue or profits, but in no case shall remuneration include an ownership interest in the cannabis business license holder.

(u) No owner who also has decision-making authority or principal of a license holder operating a licensed microbusiness shall hold any financial interest in another licensed cannabis business, whether or not a microbusiness.

17:30-6.9 Management services agreements

(a) A license applicant or license holder and a management services contractor may, pursuant to this section, contract to implement a management services agreement, which may include, but is not limited to, management or supervision, operations, technical assistance, consulting, hiring employees, accounting, recordkeeping, leasing of equipment or real or intellectual property, or provision of goods or materials.

(b) The terms of a management services agreement, including terms related to interest rates, returns, and fees, shall be commercially reasonable and consistent with the fair market value for the terms generally applicable to agreements of a comparable nature.

1. The Commission may determine whether a term is commercially reasonable or consistent with the fair market value generally applicable to the services to be provided and may consider:

i. The current valuation of a similar interest, service, or product in the medical or personal use cannabis market in this State and in other states with legal cannabis markets; and

ii. The current valuation of a similar interest, service, or product in an industry with operations similar to the cannabis industry, including, but not limited to, horticulture or agriculture, pharmaceutical drug manufacturing, or sale of pharmaceutical drugs and alcohol in this State and in other states with such industries.

(c) A management services agreement shall be bargained for between the parties in an arms-length transaction and shall include the ability for either party to terminate the agreement with due notice.

(d) A management services agreement shall provide that the management services contractor and its owners, principals, and staff who are engaged, directly or indirectly, in operating the cannabis business, are supervised in such operations by the license applicant or license holder and its owners and principals.

(e) A management services agreement shall not grant:

1. A security interest in a cannabis business being operated or in any of the assets of the license applicant or license holder; or

2. An ownership interest or any right, including a future or contingent right, to obtain an ownership interest in the cannabis business being operated.

(f) A management services contractor may be granted a future right of first refusal to acquire an ownership interest in a license applicant or license holder that would cause the management services contractor to be an owner, where a management services contractor is qualified pursuant to N.J.A.C. 17:30-6.8 and 7.11 and will cease operations as a management services contractor to become a passive investor or an owner.

(g) The term of a management services agreement shall not exceed five years without an opportunity for the parties to renegotiate the agreement at arms-length.

(h) A management services agreement shall not include any provision that provides the management services contractor with an unfair advantage over the license applicant or license holder or that violates any provisions of this subchapter.

1. Provisions that provide an unfair advantage over the license applicant or license holder and are prohibited pursuant to this subsection include, but are not limited to:

i. Any term of the agreement that is not commercially reasonable or consistent with the fair market value generally applicable to the services to be provided;

ii. Where a management services contractor receives a percentage of the net profits of the cannabis business being operated, such percentage of the profits is not commercially reasonable or exceeds the percentage of the net profits received by the license applicant or license holder;

iii. Where the amount of a fee or price charged by the management services contractor for a service, product, intellectual property, lease, or brand provided is not commercially reasonable;

iv. Where the percentage of the cannabis business's "shelf space" guaranteed for the products of the management services contractor or another entity designated by the management services contractor is not commercially reasonable or is excessive, including, but not limited to, a "shelf space" guarantee exceeding 50 percent of the cannabis business's total "shelf space";

v. A promise by the license applicant or license holder to buy a percentage of its products or materials from the management services contractor or an entity designated by the management services contractor where the percentage is not commercially reasonable and is excessive, including, but not limited to, a promise exceeding 50 percent;

vi. A promise by the license applicant or license holder not to purchase cannabis, cannabis products, or other products or materials from or sell cannabis, cannabis products, or other products or materials to specifically identified license applicants or license holders or other businesses;

vii. A promise by the license applicant or license holder of non-competition with other license applicants or license holders;

viii. Where a penalty upon a license applicant or license holder for noncompliance with the agreement is not commercially reasonable or is excessive relative to the degree of and harm caused by the noncompliance, including the surrender of personal assets of the license applicant or license holder owners or principals; or

ix. Where the management services contractor is granted control over the license applicant or license holder such that it may overrule the license applicant's or license holder's owners and principals over the most fundamental decisions of the license applicant or license holder, including its strategic plan, or any decision regarding a transfer of ownership interest of an owner.

(i) Prior to the execution of any management services agreement, a license applicant or license holder shall submit to the Commission:

1. A copy of the management services agreement and any related agreements between the parties;

2. Information detailing any remuneration paid or to be paid to the management services contractor by the license applicant or license holder in exchange for the provision of management services; and

3. All submissions required from a management services contractor pursuant to N.J.A.C. 17:30-7.10 and 7.13.

(j) Prior to any material change to a management services agreement, a license applicant or license holder shall:

1. Submit to the Commission, a copy of any proposed material changes to the management services agreement and any related agreements between the parties, any proposed material changes to information detailing any remuneration paid, or to be paid, to the management services contractor by the license applicant or license holder; and any proposed material changes to any previously required submissions.

(k) The Commission shall determine whether the management services agreement and any material change comply with the Act and this chapter; and shall notify the license applicant or license holder of the Commission's decision.

(l) The license holder shall retain authority to audit, or use an accounting firm to audit, the management services contractor's records relating to its performance under the management services agreement.

17:30-6.10 Financial source agreements

(a) A license applicant or license holder and a financial source may, pursuant to this section, contract to implement a financial source agreement to provide financial assistance.

1. A financial source includes any creditor holding:

i. A security interest in the license holder, the cannabis business, or the premises; or

ii. An outstanding bond, loan, mortgage, trust deed, note, debenture, or other form of indebtedness of the license holder or the cannabis business.

(b) The terms of the financial source agreement, including terms related to interest rates, returns, and fees, shall be commercially reasonable and consistent with the fair market value for the terms generally applicable to agreements of a comparable nature.

1. The Commission may determine whether a term is commercially reasonable or consistent with the fair market value generally applicable to the services to be provided and may consider:

i. The current valuation of a similar interest, loan, or product in the medical or personal use cannabis market in this State and in other states with legal cannabis markets; and

ii. The current valuation of a similar loan, service, or product in an industry with operations similar to the cannabis industry, including, but not limited to, horticulture or agriculture, pharmaceutical drug manufacturing, or sale of pharmaceutical drugs and alcohol in this State and in other states with such industries.

(c) A financial source agreement shall be bargained for between the parties in an arms-length transaction and shall include the ability for the borrower to pay off the complete debt at any time with due notice and no penalties for pre-payment.

(d) A financial source agreement shall not grant to a financial source an ownership interest in the license applicant or license holder.

(e) A financial source agreement may grant a future or contingent right to obtain an ownership interest in the cannabis business being operated, where a financial source is qualified pursuant to N.J.A.C. 17:30-7.11 and 6.8.

(f) A financial source agreement shall not include a provision that provides the financial source with an unfair advantage over the license applicant or license holder or that violates any provisions of this subchapter.

1. Provisions that provide an unfair advantage over the license applicant or license holder and are prohibited pursuant to this subsection include, but are not limited to:

i. Any term of the agreement that is not commercially reasonable or consistent with the fair market value generally applicable to the services to be provided;

ii. Where a financial source receives a percentage of the net profits of the cannabis business being operated, such percentage of the profits is not

commercially reasonable or exceeds the percentage of the net profits received by the license applicant or license holder;

iii. A loan from the financial source to the license applicant or license holder that is not commercially reasonable and is excessive, including, but not limited to, an interest rate exceeding 20 percent;

iv. Where the percentage of a cannabis business's "shelf space" guaranteed for the products of the financial source or an entity designated by the financial source is not commercially reasonable or is excessive, including, but not limited to, a "shelf space" guarantee exceeding 50 percent of the cannabis business's total "shelf space";

v. A promise by the license applicant or license holder to buy a percentage of its products or materials from the financial source or an entity designated by the financial source where the percentage is not commercially reasonable or is excessive, including, but not limited to, a promise exceeding 50 percent of the cannabis business's products or materials from such entity;

vi. A promise by the license applicant or license holder not to purchase cannabis, cannabis products, or other products or materials from or sell cannabis, cannabis products, or other products or materials to specifically identified license applicants or license holders or other businesses;

vii. A promise by the license applicant or license holder of non-competition with other license applicants or license holders;

viii. Where a penalty upon a license applicant or license holder for noncompliance with the agreement is not commercially reasonable or is excessive relative to the degree of and harm caused by the noncompliance; and

ix. Where the financial source is granted control over the license applicant or license holder, such that it may overrule the license applicant's or license holder's owners and principals over the most fundamental decisions of the license applicant or license holder, including its strategic plan, or any decision regarding a transfer of ownership interest of an owner.

(g) Prior to any financial source agreement taking effect, a license applicant or license holder shall submit to the Commission:

1. A copy of the financial source agreement and any related agreements between the parties;

2. Information detailing any remuneration and interest rate paid or to be paid to the financial source by the license applicant or license holder in exchange for the bond, loan, mortgage, trust deed, note, debenture, or other form of indebtedness; and

3. All submissions required from a financial source pursuant to N.J.A.C. 17:30-7.10 and 7.13.

(h) Prior to any material change to a financial source agreement, including a change of ownership interest or control of the financial source, a license applicant or license holder shall:

1. Submit to the Commission a copy of any proposed material changes to the financial source agreement and any related agreements between the parties, any proposed material changes to information detailing any remuneration and interest rate paid or to be paid to the financial source by the license applicant or license holder; and any proposed material changes to any previously required submissions; and

2. The Commission shall determine whether the financial source agreement and any material change complies with the Act and this chapter; and shall notify the license applicant or license holder of the Commission's decision.

SUBCHAPTER 7. CANNABIS BUSINESS CONDITIONAL AND ANNUAL LICENSING PROCESS

17:30-7.1 Expanded alternative treatment centers

(a) Pursuant to N.J.S.A. 24:61-46.a(3)(a)(ii), the Commission shall not require a full application pursuant to N.J.A.C. 17:30-7.10 from an alternative treatment center in order for the ATC to begin engaging in the cultivation, manufacturing, retailing, wholesaling, distributing, or delivery of cannabis items, as applicable.

(b) Notwithstanding (a) above, an ATC that wishes to engage in the cultivation, manufacturing, retailing, wholesaling, distributing, or delivery of cannabis items, as applicable, shall submit to the Commission:

1. A letter of intent notifying the Commission of the licenses sought by the ATC;

2. Municipal approval for each class of license sought by the ATC, which shall include:

i. The ordinance(s) adopted by the municipality authorizing the operation of each class of cannabis business license being sought by the ATC, or a statement explaining that there exists no municipal ordinance prohibiting the class of cannabis business license and, thus, all classes are allowed pursuant to N.J.S.A. 24:6I-45;

ii. An attestation by the ATC that, as a condition of licensure, it shall comply with all restrictions on the location, manner, and times of operation of cannabis businesses established by the municipality; and

iii. Zoning approval, a resolution from the municipality's governing body, or a letter from the highest-ranking municipal official, as applicable, that authorizes the ATC to engage in the cultivation, manufacturing, retailing, wholesaling, distributing, or delivery of cannabis items at the ATC's current premises;

3. A certification to the Commission that the alternative treatment center has sufficient quantities of medical cannabis and medical cannabis products available to meet the reasonably anticipated needs of registered qualifying patients;

4. A certification to the Commission that the alternative treatment center shall not make operational changes that reduce access to medical cannabis for current and newly registered qualifying patients in order to operate a cannabis establishment, as a distributor, or delivery service. Such certification shall include a detailed plan for prioritizing and meeting the needs of registered qualifying patients;

5. A list of owners, principals, management services contractors, financial sources, and vendor-contractors associated with the proposed cultivation, manufacturing, retailing, wholesaling, distributing, or delivery of cannabis items, as applicable.

i. Any new owners, principals, management services contractors, financial sources, or vendor-contractors may be required to comply with the provisions at N.J.A.C. 17:30-7.11, 7.12, and 7.13;

6. An attestation signed by a bona fide labor organization stating that the ATC has entered into a labor peace agreement with such bona fide labor organization;

7. A social equity plan in accordance with N.J.A.C. 17:30-9.4(e) to make a good faith effort to recruit and employ, or contract with as vendor-contractors, persons who would otherwise qualify for the provisions at N.J.A.C. 17:30-6.6(a)1 or 2; and

8. Any other information the Commission deems relevant in determining whether to accept the ATC's certifications.

(c) In determining whether to accept the ATC's certifications pursuant to (b) above, the Commission shall assess:

1. Total qualifying patient enrollment in the Statewide medical cannabis program;

2. Qualifying patient enrollment at the ATC;

3. Statewide inventory and inventory of the ATC;

4. Statewide sales of medical cannabis and medical cannabis products, and sales at the ATC;

5. The current medical cannabis canopy of the ATC;

6. The total medical cannabis canopy needed to serve the ATC's qualifying patients on an ongoing basis;

7. The total medical cannabis canopy needed to serve the total number of qualifying patients in the medical cannabis program on an ongoing basis; and

8. The operational plans and capacity of the ATC to maintain or expand medical cannabis access for qualifying patients.

(d) The Commission shall only accept a certification from an ATC pursuant to (c) above, when an ATC has proven, by clear and convincing evidence, that engaging in the cultivation, manufacturing, retailing, wholesaling, distributing, or delivery of cannabis items, as applicable, shall not impact access for registered qualifying medical cannabis patients and shall not impact the availability of medical cannabis or medical cannabis products.

(e) The Commission shall approve an expanded ATC in accordance with this subchapter where:

1. An ATC has submitted complete and accurate and verifiable information, as determined by the Commission, pursuant to (b) above;

2. The Commission accepts the ATC's certifications, pursuant to (b), (c), and (d) above; and

3. The ATC pays the conversion fee pursuant to N.J.A.C. 17:30-7.17.

(f) The Commission shall issue a written notice of its approval to an expanded ATC.

(g) After the expanded ATC has completed any necessary construction or preparation of an expanded ATC, the expanded ATC shall request an onsite assessment.

(h) The Commission shall conduct an onsite assessment of the expanded ATC and determine whether its premises, operations, and procedures are consistent with its application, and compliant with the Act and this chapter.

(i) If the Commission determines compliance, it shall issue the cannabis license(s) to the expanded ATC.

(j) The Commission may deny an expanded ATC where:

1. The Commission does not accept the ATC's certifications pursuant to (c) and (d) above;

2. The ATC does not meet the requirements at (b) above;

3. The ATC fails to provide information, documentation, and assurances as required pursuant to P.L. 2021, c. 16 (N.J.S.A. 24:6I-31 et seq.), or this subchapter, or as requested by the Commission;

4. The ATC fails to reveal any material fact pertaining to the ATC's certifications; or

5. The ATC supplies information that is untrue or misleading as to a material fact pertaining to the qualification criteria for an expanded ATC.

(k) If an expanded ATC is denied pursuant to this subchapter, the Commission shall provide the denial to the ATC, in writing, which shall include:

1. Notice of the denial of the expanded ATC and the specific reason for the denial; and

2. The opportunity to request an administrative hearing within 45 days after the date of the denial.

(l) The final decision on an expanded ATC shall be considered a final agency decision, subject to judicial review by, and of which jurisdiction and venue for such review are vested in, the Appellate Division of the Superior Court pursuant to N.J.A.C. 17:30-20.10.

(m) An expanded ATC is a cannabis business and subject to all provisions of this chapter that are applicable to cannabis businesses.

(n) Application materials submitted to the Commission pursuant to N.J.S.A. 24:6I-46.a(e)(3)(ii) and this section shall not be considered public records pursuant to N.J.S.A. 47:1A-1 et seq., or the common law concerning access to government records.

17:30-7.2 Conditional cannabis business license application submission and approval or denial

(a) The Commission shall provide notice in the New Jersey Register of the application requirements for conditional license applications in accordance with N.J.A.C. 17:30-6.1 and 17:30-7.3.

1. Such notice shall be compliant with this subchapter, and shall include:

i. Measures by which the license applicant will be scored;

ii. Maximum scores for each individual measure; and

iii. The total score required for a license applicant to be approved for a license.

(b) Within 14 days of receipt of a complete conditional license application, the Commission shall forward a copy of an application to the municipality in which the applicant desires to operate a proposed cannabis business.

(c) Not more than 30 days after the receipt of a complete conditional license application, the Commission shall make a determination on the application.

1. Such determination may include a determination that the Commission requires more time to adequately review the application.

(d) Applications shall be reviewed for completeness and then scored in accordance with the criteria included in the notice pursuant to N.J.A.C. 17:30-6.1 and 7.3.

(e) The Commission may verify the information contained in the application by:

1. Contacting the license applicant and its owners and principals by telephone, mail, or electronic mail;

2. Conducting an onsite assessment;

3. Requiring a face-to-face meeting; or

4. Requiring the submission of additional materials.

(f) The Commission shall approve a conditional license applicant that:

1. Has submitted a complete conditional license application in accordance with N.J.A.C. 17:30-7.3 and the notice of application acceptance pursuant to N.J.A.C. 17:30-6.1;

2. Has scored sufficiently high to be issued a conditional license in accordance with the criteria included in the notice of application pursuant to N.J.A.C. 17:30-6.1 and 7.3;

3. Is qualified to hold a conditional license pursuant to N.J.A.C. 17:30-7.4; and

4. Has submitted application fees pursuant to N.J.A.C. 17:30-7.17.

(g) A license application the Commission deems incomplete because of failure to address all applicable criteria and measures or to provide requested information shall be returned to the license applicant with the opportunity to cure the deficiencies in a license application and resubmit it.

(h) The Commission may deny a conditional license applicant that:

1. Is not qualified to hold a conditional license pursuant to N.J.A.C. 17:30-7.4;

2. Has not scored sufficiently high to be issued a conditional license in accordance with the criteria included in the notice of application pursuant to N.J.A.C. 17:30-6.1 and 7.3.

3. Fails to reveal any material fact pertaining to qualification pursuant to N.J.A.C. 17:30-7.4;

4. Has been determined by the Commission, by clear and convincing evidence, to be unsuitable to hold a conditional cannabis business license; or

5. Presents false or intentionally misleading information in the application process.

(i) If an application is denied, the Commission shall provide the notice of denial to the applicant, in writing, which shall include:

1. The specific reason for the denial; and

2. The opportunity to request an administrative hearing within 45 days after the date of the denial.

(j) Such administrative hearing shall take place in the Office of Administrative Law in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and 52:14F-1 et seq., and the Uniform Administrative Procedures Rules, N.J.A.C. 1:1.

1. The record for review shall be the application and any attached supporting documents, excluding information deemed exempt pursuant to N.J.S.A. 47:1A-5 et seq., or the common law concerning access to government records. Additional evidence and documentation shall not be considered.

(k) The final decision on an application pursuant to (f) or (h) above shall be considered a final agency decision, subject to judicial review by, and of which jurisdiction and venue for such review are vested in, the Appellate Division of the Superior Court, pursuant to N.J.A.C. 17:30-20.10.

17:30-7.3 Conditional cannabis business license application

(a) A conditional license applicant shall submit a complete, separate application for each cannabis business license requested and for each physical address and cannabis business premises at which a license applicant seeks to operate.

(b) A license applicant shall disclose and submit, as part of the conditional license application, the following submissions for the Commission's evaluation:

1. The mailing and physical address of the license applicant's proposed cannabis business premises or administrative office;

2. The Federal and State tax identification numbers for the license applicant;

3. Documentation of a valid Business Registration Certificate on file with the Division of Revenue and Enterprise Services in the Department of the Treasury;

4. Information about the license applicant entity, including its legal name, any registered alternate name, and a copy of its articles of organization and bylaws;

5. The business plan and management operation profile for the proposed cannabis business;

6. The plan by which the license applicant intends to obtain appropriate liability insurance coverage for the proposed cannabis business;

7. A regulatory compliance plan, which shall detail the plan by which the license applicant shall comply with the remaining regulatory requirements to convert to an annual license;

8. An affidavit that the statements included in the application are true and correct, sworn by the license applicant's representative;

9. An authorization to release all information pertaining to the license applicant, as requested by the Commission, signed by the license applicant's representative;

10. A waiver of liability for any damages results to the license holder from any disclosure or publication in any manner, other than a willfully unlawful disclosure or publication, of any information acquired during the licensing process, signed by the license applicant's representative;

11. Any applicable fees required pursuant to N.J.A.C. 17:30-7.17; and

12. Any other application requirement established by the Commission in a notice of acceptance of application published in the New Jersey Register issued pursuant to N.J.A.C. 17:30-6.1.

(c) A license applicant shall disclose and submit, as part of the conditional license application, the following submissions relating to qualification, pursuant to N.J.A.C. 17:30-7.4:

1. A list of all owners, principals, and employees of the license applicant, including their names, addresses, dates of birth, resumes, and a photocopy of their unexpired driver's licenses or other state or Federal government-issued form of photo identification that may be used to prove each person is at least 21 years of age;

2. A list of the owners of the license applicant who have resided in this State for at least two years as of the date of the application, and documentation of such residency;

3. A list of the owners of the license applicant and the percentage of each owner's ownership interest;

4. A list of any proposed management services contractors, financial sources, or vendor-contractors;

5. Personal history disclosure forms for any owners, principals, financial sources, or management services contractors of the license applicant, as applicable;

6. Entity disclosure forms for any owners, principals, financial sources, or management services contractors of the license applicant, including entity formation documents, any proposed or signed management services or financial source agreements, and tax returns, as applicable;

7. Proof that each owner of the conditional license applicant who has decision-making authority has, for the immediately preceding taxable year, an adjusted gross income of no more than \$200,000, or no more than \$400,000, if filing jointly with another individual;

8. A certification that each owner of the license applicant who has decision-making authority does not have any ownership interest in any other license applicant applying for, or a license holder holding, an annual cannabis business license;

9. For each owner, principal, or employee of the license applicant, as well as each staff member of a license applicant's management services contractor that participates in the obtaining, possession, securing, cultivating, manufacturing, transporting, selling, delivering, or destroying cannabis items, written consent to be fingerprinted and to undergo a criminal history record background check and any evidence of rehabilitation pursuant to N.J.A.C. 17:30-7.12;

10. For each owner, principal, and employee of the license applicant, certification confirming the person's submission to the jurisdiction of the courts of the State and pledging to comply with the laws and rules of the State pertaining to personal use cannabis;

11. For a license applicant that is a diversely owned business, the certification that the license applicant is one or more of: a minority-owned business, women-owned business, or disabled veteran-owned business, as applicable;

12. For a license applicant that is an impact zone business, evidence from any qualifying owner, passive investor, or employee proving the qualification of the person under the impact zone business criteria pursuant to N.J.A.C. 17:30-6.5;

13. For a license applicant that is a social equity business, evidence from any qualifying owner or passive investor attesting to the

qualification of the person under the social equity business criteria pursuant to N.J.A.C. 17:30-6.6; and

14. For a microbusiness license applicant, proof that at least 51 percent of the total number of persons included in the microbusiness license applicant, including all owners, principals, and employees, are residents of either the municipality in which the microbusiness is, or will be located, or of a municipality bordering such a municipality, at the time of the application.

(d) A conditional license applicant shall provide the Commission with a complete disclosure that includes all true parties of interest.

1. The license applicant shall not attempt to conceal or disguise ownership or other control over its operations in its submissions, and such an attempt shall be grounds for denial of an application.

(e) Application materials submitted to the Commission pursuant to N.J.S.A. 24:61-36 and this section shall not be considered public records pursuant to N.J.S.A. 47:1A-1 et seq., or the common law concerning access to government records.

17:30-7.4 Conditional license holder qualification

(a) A license applicant or license holder is qualified to hold a conditional license where:

1. Each owner, principal, employee, management services contractor, and financial source of the license applicant or license holder has complied with N.J.A.C. 17:30-7.12;

2. No owner, principal, employee, or volunteer of the license applicant or license holder has a disqualifying conviction pursuant to N.J.A.C. 17:30-7.12(d) without evidence of rehabilitation pursuant to N.J.A.C. 17:30-7.12(e);

3. No staff member of a license applicant's or license holder's management services contractor that participates in the obtaining, possession, securing, cultivating, manufacturing, transporting, selling, delivering, or destroying of cannabis items for the license applicant or license holder has a disqualifying conviction pursuant to N.J.A.C. 17:30-7.12(d) without evidence of rehabilitation pursuant to N.J.A.C. 17:30-7.12(e);

4. At least one owner of the license applicant shall have resided in this State for at least two years as of the date of the application;

5. Each owner in the conditional license applicant who also has decision-making authority has, for the immediately preceding taxable year, an adjusted gross income of no more than \$200,000 or no more than \$400,000 if filing jointly with another individual; and

6. Each owner and principal of the license applicant or license holder is eligible to be an owner or principal, respectively, of the license applicant or license holder in accordance with N.J.A.C. 17:30-6.8.

17:30-7.5 Conditional cannabis business license acceptance and issuance

(a) If the Commission approves an applicant applying for a conditional license, the Commission shall provide the applicant with written notice of approval.

(b) Within five business days of receiving notice of approval, a license applicant shall notify the Commission as to whether:

1. It will accept the license; or

2. It will abandon the license, including if accepting the license would violate N.J.A.C. 17:30-6.8 or make the license applicant otherwise ineligible or if the circumstances of the license applicant have changed.

(c) Failure of the applicant to notify the Commission of its decision to accept or abandon the license shall result in the license being deemed abandoned.

(d) If the license applicant approved for the conditional license accepts the license and provides to the Commission the conditional application approval fee pursuant to N.J.A.C. 17:30-7.17, no later than 30 days after giving notice of approval, unless the Commission finds the applicant is not in compliance with this subchapter or the Commission is notified by the relevant municipality that the applicant is not in compliance with its ordinances or regulations in effect at the time of the application, the Commission shall issue the conditional license and provide the conditional license to the license applicant.

(e) The Commission shall provide, to a denied applicant, the processes available at N.J.A.C. 17:30-7.2(i), (j), and (k).

17:30-7.6 Conditional cannabis license phase

(a) The conditional license phase:

1. Begins on the day that the conditional license is issued to the license applicant; and

2. Expires 120 days after the day that the conditional license was issued or at the end of an extension.

i. A conditional license shall not be renewed, but may be extended pursuant to this section or for good cause, as deemed necessary by the Commission.

ii. A conditional license shall expire if replaced with an annual license or can be revoked at the discretion of the Commission.

(b) A conditional license holder may apply for a 45-day extension of the conditional license, and the Commission may grant the extension on a case-by-case basis.

(c) The Commission shall grant an extension of the conditional license where the conditional license holder has submitted a complete conditional license conversion application, during the time the complete conditional license conversion application is under consideration by the Commission.

(d) During the conditional license phase, a conditional license holder shall:

1. Establish control of the proposed site, through lease, purchase, or other means, for the cannabis business;

2. Gain municipal approval; and

3. Submit a conditional license conversion application.

(e) During the conditional license phase, a conditional license holder shall not engage in purchasing, possessing, selling, cultivating, manufacturing, or selling cannabis or cannabis products.

(f) During the conditional license phase, the conditional license holder may obtain additional resources by adding new loans or gifts from new or existing financial sources not listed in the conditional license application.

(g) During the conditional license phase, the majority share of the ownership interest in the license holder shall remain the same as at the time of license issuance, however:

1. An owner or passive investor of the conditional license holder may transfer ownership interest to another qualified party; and

2. The conditional license holder may add new qualified owners and principals.

(h) Notwithstanding (g) above:

1. A diversely owned business conditional license holder shall not make any ownership interest transfer that causes the license applicant to no longer comply with the diversely owned business criteria, pursuant to N.J.A.C. 17:30-6.4;

2. An impact zone business conditional license holder shall not make any ownership interest transfer that causes the license applicant to no longer comply with the impact zone business criteria, pursuant to N.J.A.C. 17:30-6.5;

3. A social equity business conditional license holder shall not make any ownership interest transfer that causes the license applicant to no longer comply with the social equity business criteria, pursuant to N.J.A.C. 17:30-6.6;

4. A microbusiness conditional license holder shall not make any ownership interest transfer that causes the license applicant to no longer comply with the microbusiness license criteria, pursuant to N.J.A.C. 17:30-6.7; and

5. A conditional license holder shall not violate the limitations on owners and principals, pursuant to N.J.A.C. 17:30-6.8.

(i) A conditional license holder may apply for, and the Commission may authorize, a change in the location for which the license applicant was awarded conditional license approval to a different location, and such new location shall be reflected in the conditional license conversion application.

1. An impact zone business or microbusiness conditional license holder shall not make any change in the location for which the license applicant was awarded conditional license approval that causes the license applicant to no longer comply with the impact zone business criteria, pursuant to N.J.A.C. 17:30-6.5, or the microbusiness criteria, pursuant to N.J.A.C. 17:30-6.7.

i. Any such change in location during the conditional license phase for an impact zone business or microbusiness license applicant that would

result in noncompliance with the impact zone business or microbusiness criteria shall result in a denial of the conversion application.

(j) During the conditional license phase, a conditional license holder may also notify the Commission of its intention to abandon the license and such license will be returned to the Commission.

17:30-7.7 Conditional cannabis business conversion application submission; approval; denial; acceptance; inspection; issuance; and commencement of cannabis business operations

(a) The Commission shall provide notice in the New Jersey Register of the application requirements for conditional license conversion applications in accordance with N.J.A.C. 17:30-6.1 and this subchapter.

1. Such notice shall be compliant with this subchapter and shall include:

- i. Measures by which the license applicant will be scored;
- ii. Maximum scores for each individual measure; and
- iii. The total score required for a license applicant to be approved for a license.

(b) Prior to the expiration of the conditional license phase, a conditional license holder shall submit a conversion application to the Commission for an annual license.

(c) Applications shall be reviewed for completeness and then scored in accordance with the criteria included in the notice pursuant to N.J.A.C. 17:30-6.1 and 7.3.

(d) The Commission may verify the information contained in a conditional conversion application by:

1. Contacting the license applicant and its owners and principals by telephone, mail, or electronic mail;
2. Conducting an onsite assessment;
3. Requiring a face-to-face meeting; or
4. Requiring submission of additional materials.

(e) At its discretion, the Commission may investigate and may conduct probity review of the license applicant, its owners, principals, and related entities and their finances, ownership, and control structure as is necessary for such verification pursuant to N.J.A.C. 17:30-7.13.

1. The license applicant shall cooperate with the Commission investigation and verification process and provide all information requested by Commission staff.

(f) The Commission shall approve a license applicant for conversion to an annual license where the license applicant:

1. Has submitted a complete conditional license conversion application in accordance with N.J.A.C. 17:30-7.8;
2. Has scored sufficiently high to be issued an annual license in accordance with the criteria included in the notice of application pursuant to N.J.A.C. 17:30-6.1 and 7.8;
3. Has been deemed qualified for an annual license pursuant to N.J.A.C. 17:30-7.11;
4. Has submitted its conditional conversion application submission fee, as applicable, pursuant to N.J.A.C. 17:30-7.17; and
5. Has submitted sufficient information for the Commission to determine that it is implementing the plans, procedures, protocols, actions, or other measures set forth in its conditional license application and is in compliance with all applicable conditions.

(g) A license application the Commission deems incomplete because of failure to address all applicable criteria and measures or to provide requested information shall be returned to the license applicant with the opportunity to cure the deficiencies in a license application and resubmit it.

(h) The Commission may deny a license applicant for conversion, where the applicant:

1. Is not qualified to hold an annual license pursuant to N.J.A.C. 17:30-7.11;
2. Has not scored sufficiently high to convert a conditional license to an annual license in accordance with the criteria included in the notice of application pursuant to N.J.A.C. 17:30-6.1 and this subchapter;
3. Fails to reveal any material fact pertaining to qualification pursuant to N.J.A.C. 17:30-7.11;

4. Has been determined by the Commission, by clear and convincing evidence, to be unsuitable to hold an annual cannabis business license pursuant to N.J.A.C. 17:30-7.11; or

5. Presents false or intentionally misleading information in the application process.

(i) If an application is denied, the Commission shall provide notice of the denial to the applicant, in writing, which shall include:

1. The specific reason for the denial; and
2. The opportunity to request an administrative hearing within 45 days after the date of the denial.

(j) Such administrative hearing shall take place in the Office of Administrative Law in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedures Rules, N.J.A.C. 1:1.

1. The record for review shall be the application and any attached supporting documents excluding information deemed exempt pursuant to N.J.S.A. 47:1A-1 et seq., or the common law concerning access to government records.

(k) The final decision *[of]* *on* an application, pursuant to (f) or (h) above, shall be considered a final agency decision, subject to judicial review by, and of which jurisdiction and venue for such review are vested in, the Appellate Division of the Superior Court, pursuant to N.J.A.C. 17:30-20.10.

(l) Acceptance and issuance of the annual license, inspection of the cannabis business premises, and commencement of cannabis business operations shall proceed in accordance with N.J.A.C. 17:30-7.14.

17:30-7.8 Conditional cannabis business conversion application

(a) The conversion application shall include the following substantive requirements:

1. All information required pursuant to N.J.A.C. 17:30-7.3, including any updates;

2. For each proposed location of a license applicant's cannabis business premises or administrative office, a description of the proposed location and its surrounding area, including the following:

- i. The mailing and physical address of the license applicant's proposed location;
- ii. A description of the suitability or advantages of the proposed location; and
- iii. A site plan of the proposed location, including a floor plan, which may optionally include renderings, architectural plans, or engineering plans;

3. For each proposed location of a license applicant's cannabis business premises, evidence of compliance with local codes and ordinances including, but not limited to:

- i. The distance from the closest church, synagogue, temple, or other place used exclusively for religious worship; or
- ii. The distance to the closest school, playground, park, or child daycare facility;

4. Zoning approval, which shall consist of a letter or affidavit from appropriate officials of the municipality that the location will conform to municipal zoning requirements allowing for activities related to the operations of the proposed cannabis *business*, as will be conducted at the proposed business, and any variances granted concerning the operation of a cannabis business;

5. Proof of local support, which shall be demonstrated by a resolution adopted by the municipality's governing body, or where the municipality has no governing body, a written letter of support from the municipality's executive;

6. For each proposed location of a license applicant's cannabis business premises, documentation demonstrating that the license applicant will have final control of the premises upon approval of the application, including, but not limited to, a lease agreement, contract for sale, title, deed, or similar documentation;

7. An environmental impact plan, which includes consideration of sustainable alternatives to single-use plastic packaging;

8. A safety and security plan that conforms with N.J.A.C. 17:30-9.10;

9. A community impact or social responsibility plan;

10. A workforce development and job creation plan, which includes an optional diversity plan;

11. Standard operating procedures for:
 - i. Adverse event reporting;
 - ii. Quality assurance and quality control;
 - iii. Recall of cannabis items, as needed or directed;
 - iv. Packaging and labeling;
 - v. Inventory control, storage, diversion prevention;
 - vi. Recordkeeping;
 - vii. Waste disposal/sanitation;
 - viii. Cultivation, manufacturing, retail sale, delivery, and secure transport, as applicable, based on the class of license sought;
 - ix. Accounting and tax compliance; and
 - x. The reporting of test results, as applicable, based on the class of license sought;

12. An attestation signed by a bona fide labor organization stating that the license applicant has entered into a labor peace agreement with such bona fide labor organization.

i. A conditional license holder operating as a microbusiness is exempted from this requirement;

13. For a social equity business, diversely owned business, or impact zone business, evidence the license applicant is still in compliance with the requirements of the designations; and

14. Any other application requirement established by the Commission pursuant to the notice of acceptance of application published in the New Jersey Register pursuant to N.J.A.C. 17:30-6.1.

(b) The conversion application shall include the annual license qualification submissions required pursuant to N.J.A.C. 17:30-7.10(d).

(c) A conditional cannabis business conversion applicant shall provide the Commission with a complete disclosure that includes all true parties of interest.

1. The license applicant or license holder shall not attempt to conceal or disguise ownership or other control over its operations in its submissions, and such an attempt shall be grounds for denial of an application.

(d) Application materials submitted to the Commission pursuant to N.J.S.A. 24:61-36 and this section shall not be considered public records pursuant to N.J.S.A. 47:1A-1 et seq., or the common law concerning access to government records.

17:30-7.9 Annual cannabis business license application submission, approval, denial

(a) The Commission shall provide notice of the annual cannabis business license application requirements in accordance with N.J.A.C. 17:30-6.1.

1. Such notice shall be compliant with N.J.A.C. 17:30-7.10, and shall include:

- i. Measures by which the license applicant will be scored;
- ii. Maximum scores for each individual measure; and
- iii. The total score required for a license applicant to be approved for a license.

(b) Within 14 days of receipt of a complete annual license application, the Commission shall forward a copy of the application to the municipality in which the applicant desires to operate a proposed cannabis business.

(c) Not more than 90 days after the receipt of a complete annual license application, the Commission shall make a determination on the application.

1. Such determination may include a determination that the Commission requires more time to adequately review the application.

(d) Applications shall be reviewed for completeness and then scored in accordance with the criteria included in the notice pursuant to N.J.A.C. 17:30-6.1 and 7.10.

(e) The Commission may verify the information contained in an annual license application by:

1. Contacting the license applicant and its owners and principals by telephone, mail, or electronic mail;
2. Conducting an onsite assessment;
3. Requiring a face-to-face meeting; and
4. Requiring the production of additional materials.

(f) At its discretion, the Commission may investigate and may conduct a probity review of the license applicant, its owners, principals, and

related entities and their finances, ownership, and control structure as it deems necessary.

1. The license applicant shall cooperate with the Commission investigation and verification process and shall provide all information requested by Commission staff.

(g) The Commission shall approve a license applicant for an annual license where the applicant:

1. Has submitted a complete annual license application in accordance with N.J.A.C. 17:30-7.10;

2. Has scored sufficiently high to be issued an annual license in accordance with the criteria included in the notice of application pursuant to N.J.A.C. 17:30-6.1 and 7.10;

3. Has been deemed qualified to hold an annual license pursuant to N.J.A.C. 17:30-7.11; and

4. Has submitted its annual license application submission fee, pursuant to N.J.A.C. 17:30-7.17.

(h) A license application the Commission deems incomplete because of failure to address all applicable criteria and measures or to provide requested information shall be returned to the license applicant with the opportunity to cure the deficiencies in a license application and resubmit it.

(i) The Commission may deny a license applicant for an annual license that:

1. Is not qualified to hold an annual license pursuant to N.J.A.C. 17:30-7.11;

2. Has not scored sufficiently high to be issued an annual license in accordance with the criteria included in the notice of application pursuant to N.J.A.C. 17:30-6.1 and 7.10;

3. Fails to reveal any material fact pertaining to qualification pursuant to N.J.A.C. 17:30-7.11;

4. Has been determined by the Commission, by clear and convincing evidence, to be unsuitable to hold an annual cannabis business license pursuant to N.J.A.C. 17:30-7.11; or

5. Presents false or intentionally misleading information in the application process.

(j) If an application is denied, the Commission shall provide notice of the denial to the applicant, in writing, which shall include:

1. The specific reason for the denial; and
2. The opportunity to request an administrative hearing within 45 days after the date of the denial.

(k) Such administrative hearing shall take place in the Office of Administrative Law in accordance with the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq., and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

1. The record for review shall be the application and any attached supporting documents excluding information deemed exempt pursuant to N.J.S.A. 47:1A-1 et seq., or the common law concerning access to government records.

(l) The final decision of an application pursuant to (g) or (i) above shall be considered a final agency decision, subject to judicial review by, and of which jurisdiction and venue for such review are vested in, the Appellate Division of the Superior Court pursuant to N.J.A.C. 17:30-20.10.

17:30-7.10 Annual cannabis business license application

(a) An applicant for an annual license shall submit a complete, separate application, on forms prescribed by the Commission, for each cannabis business license requested and for each physical address and cannabis business premises at which a license applicant seeks to operate.

(b) A license applicant shall disclose and submit, as part of the annual license applications process, the following materials for the Commission's evaluation:

1. The Federal and State tax identification numbers for the license applicant;

2. Documentation of a valid Business Registration Certificate on file with the Division of Revenue and Enterprise Services in the Department of the Treasury;

3. Information about the license applicant, including its legal name, and any registered alternate name;

4. A copy of the documents reflecting the formation of the license applicant entity, including, but not limited to, articles of incorporation or organization, charter, bylaws, stock issuance records, operating agreements, partnership agreements, other formation documents filed with the Secretary of State, and any other documents that govern the legal and ownership structure of the entity;

5. If applicable, documents from the Federal or State government recognizing the license applicant entity's nonprofit status;

6. A description of the proposed location and its surrounding area, including the following:

i. The mailing and physical address of the license applicant's proposed location;

ii. A description of the suitability or advantages of the proposed location;

iii. A site plan of the proposed location, including a floor plan, which may optionally include renderings, architectural plans, or engineering plans;

7. Evidence of compliance with local codes and ordinances including, but not limited to:

i. The distance from the closest church, synagogue, temple, or other place used exclusively for religious worship; or

ii. The distance to the closest school, playground, park, or child daycare facility;

8. Zoning approval, which shall consist of a letter or affidavit from appropriate officials of the municipality stating that the location will conform to municipal zoning requirements allowing for activities related to the operations of the proposed cannabis business, and any variances granted concerning the operation of a cannabis business;

9. Proof of local support, which shall be demonstrated by a resolution adopted by the municipality's governing body, or where the municipality has no governing body, a written letter of support from the municipality's executive;

10. Documentation demonstrating that the license applicant will have final control of the premises upon approval of the application. Documentation includes, but is not limited to, a lease agreement, contract for sale, title, deed, or similar documentation;

11. Where a license applicant will lease the premises, certification from the landlord that the landlord is aware that the tenant's use of the premises will involve activities associated with operations as a cannabis business.

i. An application for an annual license that does not include such certification shall be disqualified from consideration;

12. The plan by which the license applicant intends to obtain appropriate liability insurance coverage for the proposed cannabis business;

13. Evidence supporting any of the following bonus point categories, as applicable:

i. License applicants that are party to a collective bargaining agreement with a bona fide labor organization that currently represents, or is actively seeking to represent, cannabis workers in New Jersey;

ii. License applicants that are party to a collective bargaining agreement with a bona fide labor organization that currently represents cannabis workers in another state;

iii. License applicants that submit a signed project labor agreement with a bona fide building trades labor organization for the construction or retrofit of the facilities associated with the license applicant;

iv. License applicants that submit a signed project labor agreement with a bona fide labor organization for any other applicable project associated with the license applicant; or

v. License applicants that include at least one owner lawfully residing in New Jersey for at least five years as of the date of the application;

14. An operating plan, including, as applicable, a cultivation, manufacturing, retail sale, wholesaling, distributing, or delivery services operating plan pursuant to N.J.S.A. 24:61-36.d(1)(b)(i), (ii), and (iii);

15. A business and financial plan;

16. An environmental impact plan, which shall, at a minimum, include consideration of sustainable alternatives to single-use plastic packaging, efforts to minimize water usage, and any other factor required by the Commission in a notice of application acceptance published in the New Jersey Register issued pursuant to N.J.A.C. 17:30-6.1;

17. A safety and security plan that conforms with N.J.A.C. 17:30-9.10;

18. A community impact or social responsibility plan;

19. A workforce development and job creation plan, which may include an optional diversity plan;

20. Standard operating procedures for:

i. Adverse event reporting;

ii. Quality assurance and quality control;

iii. Recall of cannabis items, as needed or directed;

iv. Packaging and labeling;

v. Inventory control, storage, and diversion prevention;

vi. Recordkeeping;

vii. Waste disposal/sanitation;

viii. Cultivation, manufacturing, retail sale, delivery, and/or secure transport, as applicable, based on the class of license sought;

ix. Accounting and tax compliance; and

x. The reporting of test results, as applicable, based on the class of license sought.

21. An attestation signed by a bona fide labor organization stating that the license applicant has entered into a labor peace agreement with a bona fide labor organization.

i. This requirement does not apply to a microbusiness applying for an annual license;

22. If a license applicant intends to enter into, or has entered into, a partnership with a re-entry program for the purpose of identifying and promoting employment opportunities for currently or formerly incarcerated people at the cannabis business, the details of such partnership including:

i. The name of the re-entry program;

ii. The employment or training opportunities at the license applicant's cannabis business that will be made available to the re-entry population;

iii. Any other initiatives the license applicant will undertake to provide support and assistance to the re-entry population; and

iv. The training and support offered or provided for the advancement of the re-entry population;

23. An affidavit that the statements included in the application are true and correct, sworn by the license applicant's representative;

24. An authorization to release all information pertaining to the license applicant, as requested by the Commission, signed by the license applicant's representative;

25. A waiver of liability for any damages results to the license holder from any disclosure or publication in any manner, other than a willfully unlawful disclosure or publication, of any information acquired during the licensing process, signed by the license applicant's representative; and

26. Any other information the Commission deems relevant in determining whether to grant a license to the applicant.

(c) The cannabis retailer annual license application shall additionally include a certification that the proposed cannabis retailer location is not in or upon any premises which operates a grocery store, delicatessen, indoor food market, or other store engaging in retail sales of food; or any premises in which operates a store that engages in licensed retail sales of alcoholic beverages, as defined at N.J.S.A. 33:1-1.b.

(d) A license applicant shall disclose and submit, as part of the annual license application, the following submissions relating to its qualification for an annual license, pursuant to N.J.A.C. 17:30-7.11:

1. License applicant and cannabis business organizational charts identifying ownership, control, and operational structure, including owners, principals, management services contractors, managers, as well as all parent companies, subsidiaries, affiliates, predecessors, and successors of the license applicant;

2. A list of all persons that are owners, passive investors, principals, and managers of the license applicant, including their names, addresses, dates of birth, and each owner's and passive investor's percentage of ownership interest;

3. For all persons that are owners or principals of the license applicant, a copy of their unexpired driver's license or other photo identification issued by the State, another state, or the Federal government, which shall be proof that the person is at least 21 years of age;

4. For all persons that are owners and principals of the license applicant, a completed Personal History Disclosure Form, including a resume;

5. A list of the persons that are owners of the license applicant who have resided in this State for at least two years as of the date of the application and documentation of such residency;

6. For each owner, principal, or employee of a license applicant or license holder, as well as for each staff member of a license applicant's or license holder's management services contractor that participates in the obtaining, possession, securing, cultivating, manufacturing, transporting, selling, delivering, or destroying cannabis items, proof that the person has been fingerprinted and written consent to undergo a criminal history record background check pursuant to N.J.A.C. 17:30-7.12;

7. For any person seeking to become an owner, principal, or employee of a license applicant or license holder who has a disqualifying conviction pursuant to N.J.A.C. 17:30-7.12(d), evidence of rehabilitation pursuant to N.J.A.C. 17:30-7.12(e), if any;

8. For any person seeking to become a staff member of a license applicant's or license holder's management services contractor that participates in the obtaining, possession, securing, cultivating, manufacturing, transporting, selling, delivering, or destroying cannabis items who has a disqualifying conviction pursuant to N.J.A.C. 17:30-7.12(d), evidence of rehabilitation pursuant to N.J.A.C. 17:30-7.12(e), if any;

9. For the license applicant and each of its owners, principals, or managers, a list of any pending or adjudicated criminal charges or convictions;

10. A list of entities that are owners, passive investors, principals, and management services contractors of the license applicant, including their names, addresses, and each owner's and passive investor's percentage of ownership interest;

11. For all entities that are an owner, principal, or management services contractor of a license applicant, a completed Entity Disclosure Form;

12. For all persons or entities that hold at least 10 percent aggregate ownership interest in, or are a member of the executive team of a management services contractor of a license applicant, their names, addresses, dates of birth, positions held, percentage of ownership interest in the management services contractor entity, and a completed Personal History Disclosure Form for each person.

i. Except that for a person or entity holding ownership interest in or control over a management services contractor that is a qualified institutional investor, a completed Personal History Disclosure Form for each person is not required;

13. Any management services agreement, pursuant to N.J.A.C. 17:30-6.9;

14. A list of all parent companies, subsidiaries, affiliates, predecessors, and successors of the license applicant;

15. A list that describes, beginning with the formation of the license applicant entity, any and all events such as sales, mergers, business combinations, or consolidations involving the entity, including all former names of the entity;

16. A list of all financial sources, including qualified institutional investors, holding debt of the license applicant.

i. The nature, type, terms, covenants, and priorities of all outstanding debts of the license applicant, including, but not limited to, bonds, loans, mortgages, trust deeds, debentures, lines of credit, notes issued or executed, or to be issued or executed, or other forms of indebtedness of the license applicant or on its behalf;

ii. A completed Entity Disclosure Form for each financial source, except a qualified institutional investor; and

iii. A completed Personal History Disclosure Form for each financial source that is a person;

17. Any proposed or executed contract, term sheet, agreement, or side letter between an owner, principal, or financial source and another party that relates to the ownership and control structure, assets, liabilities, real or intellectual property, revenue, funding or capitalization, royalties, or profit, or future profit, of the license applicant or comparable documents that change the legal structure of the license applicant, including any financial source agreement, pursuant to N.J.A.C. 17:30-6.10;

18. A list of all vendor-contractors with whom the license applicant has contracts or agreements;

19. For the license applicant and each of its owners, principals, managers, management services companies, parent companies, subsidiaries, affiliates, predecessors, or successors:

i. A list of any organizations that hold or previously held permits, licenses, or other authorizations to participate in the cultivation, manufacturing, sale, or distribution of medical cannabis or cannabis in any jurisdiction, including a foreign jurisdiction, where the person or entity serves or served as an owner, principal, or employee for six or more months;

20. For the license applicant and each of its parent companies, subsidiaries, affiliates, predecessors, or successors:

i. A list of any previous violation of, or judgment, order, consent decree, consent order, sanction, or penalty pertaining to any state or Federal statute, regulation, or code; and

ii. A list of all pending litigation or past litigation that concluded in the last five years, whether in the State or in another jurisdiction, in which the entity was involved;

21. A list of every financial institution at which the license applicant has had an account in the last five years;

22. A list of bankruptcy or insolvency proceedings by the license applicant, and each of its parent companies, subsidiaries, affiliates, predecessors, or successors, and a copy of any bankruptcy decree as a result of the same;

23. A list of any charitable contributions made by the license applicant in the last five years;

24. A list of stocks held by the license applicant;

25. For each owner, principal, management services contractor, and employee of the license applicant, certification confirming the person's or entity's submission to the jurisdiction of the courts of the State and agreeing to comply with all laws and rules of the State pertaining to personal use cannabis;

26. For a license applicant that is a diversely owned business, the certification that the license applicant is a minority-owned business, woman-owned business, or disabled veteran-owned business, in accordance with N.J.A.C. 17:30-6.4;

27. For a license applicant that is an impact zone business, an attestation from any qualifying owner, passive investor, or employee attesting to their qualification under the impact zone business criteria, pursuant to N.J.A.C. 17:30-6.5;

28. For a license applicant that is a social equity business, an attestation from any qualifying owner or passive investor attesting to the qualification of the person under the social equity business criteria, pursuant to N.J.A.C. 17:30-6.6;

29. For a microbusiness license applicant, proof that at least 51 percent of the total number of persons included in the microbusiness, including all owners, principals, and employees, are residents of either of the municipality in which the microbusiness, is or will be located, or of a municipality directly bordering such a municipality, at the time of the application;

30. An affirmation that the license applicant exercised reasonable care to confirm its submission information and the ability of each person or entity in its submission to serve as an owner or principal without violating N.J.A.C. 17:30-6.8; and

31. Any other application requirement established by the Commission in a notice of acceptance of application published in the New Jersey Register issued pursuant to N.J.A.C. 17:30-6.1.

(e) A license applicant shall provide the Commission a complete disclosure pursuant to (d) above that includes all true parties of interest.

1. The license applicant or license holder shall not attempt to conceal or disguise ownership or other control over its operations in its submissions.

(f) Application materials submitted to the Commission pursuant to N.J.S.A. 24:61-36 or this section shall not be considered public records pursuant to N.J.S.A. 47:1A-1 et seq., or the common law concerning access to government records.

17:30-7.11 Qualification for an annual cannabis business license

(a) A license applicant or license holder is qualified to hold an annual license where:

1. Each owner, principal, employee, or volunteer of a license applicant or license holder, as well as each staff member of a license applicant's or license holder's management services contractor that participates in the obtaining, possession, securing, cultivating, manufacturing, transporting, selling, delivering, or destroying cannabis items has submitted a criminal history background check pursuant to N.J.A.C. 17:30-7.12;

2. No owner, principal, employee, or volunteer of a license applicant or license holder has a disqualifying conviction pursuant to N.J.A.C. 17:30-7.12(d) without evidence of rehabilitation pursuant to N.J.A.C. 17:30-7.12(d);

3. No staff member of a license applicant's or license holder's management services contractor that participates in the obtaining, possession, securing, cultivating, manufacturing, transporting, selling, delivering, or destroying cannabis items of the license applicant or license holder has a disqualifying conviction pursuant to N.J.A.C. 17:30-7.12(d) without evidence of rehabilitation pursuant to N.J.A.C. 17:30-7.12(e);

4. At least one owner of the license applicant has resided in this State for at least two years as of the date of the application;

5. Each owner and principal of the license applicant or license holder is eligible to be an owner or principal, respectively, of the license applicant or license holder in accordance with N.J.A.C. 17:30-6.8;

6. If a diversely owned business, the license applicant or license holder fulfills all of the diversely owned business requirements, pursuant to N.J.A.C. 17:30-6.4;

7. If an impact zone business, the license applicant or license holder fulfills all of the impact zone business requirements, pursuant to N.J.A.C. 17:30-6.5;

8. If a social equity business, the license applicant or license holder fulfills all of the social equity business ownership requirements, pursuant to N.J.A.C. 17:30-6.6;

9. If a microbusiness, the license applicant or license holder fulfills all of the microbusiness ownership requirements, pursuant to N.J.A.C. 17:30-6.7;

10. No employee of any State, county, or local government entity involved in the process of reviewing, processing, or making determinations with regard to cannabis business license applications has any direct or indirect financial interest in the license applicant or license holder; and

11. The license applicant or license holder has not provided anything of value to an employee of any State, county, or local government entity involved in the process of reviewing, processing, or making determinations with regard to license applications in exchange for reviewing, processing, or making any recommendations with respect to a license application.

(b) A license applicant or license holder is not qualified to hold a license where the license applicant or license holder:

1. Does not meet the requirements at (a) above;

2. Fails to provide information, documentation, and assurances as required pursuant to P.L. 2021, c. 16 (N.J.S.A. 24:6I-31 et seq.), or this subchapter or as requested by the Commission, including failure to provide a required criminal history record background check or to cooperate with the Commission in its investigation of the license applicant;

3. Fails to reveal any material fact pertaining to qualification;

4. Supplies information that is untrue or misleading as to a material fact pertaining to the qualification criteria for a license; or

5. Has been determined by the Commission to be unsuitable to hold a cannabis business license pursuant to (c) below.

(c) The Commission may determine a license applicant or license holder is unsuitable pursuant to (b)5 above, where the license applicant or license holder has demonstrated:

1. To be a danger to the public health, safety, and general welfare of the State; or

2. A history of:

i. Distributing marijuana to minors;

ii. Involvement with organized crime;

iii. Diverting marijuana from personal use or ***medical*** cannabis states to other states;

iv. Engaging in trafficking of controlled substances not authorized by the Act or this chapter, or other illegal activity; or

v. Engaging in violence or the use of firearms as part of cannabis business operations.

(d) If the person is determined to be not qualified for an annual license, such disqualification shall be considered a final agency action subject to judicial review pursuant to N.J.A.C. 17:30-20.10, and the Commission shall provide notice of the determination to the person in writing, which shall include:

1. The specific reason for the disqualification, including any conviction that constitutes the basis for the disqualification; and

2. Information about appeal rights pursuant to N.J.A.C. 17:30-20.10.

17:30-7.12 Criminal history background check

(a) Each owner, principal, employee, or volunteer of a cannabis business or testing laboratory license applicant or license holder or staff member of a license applicant's or license holder's management services contractor shall provide written consent to submit to a criminal history background check pursuant to the Act and shall comply with procedures established by the Division of State Police pursuant to N.J.A.C. 13:59 for obtaining readable fingerprint impressions.

1. The license applicant, or license holder, as applicable, shall bear the cost for the criminal history background check, including all costs of fingerprinting and administering and processing the check.

2. For a management services contractor, only staff members that participate in obtaining, possessing, securing, cultivating, manufacturing, transporting, selling, delivering, or destroying cannabis items on behalf of a license applicant or license holder shall be required to consent and comply with a criminal history record background check.

(b) A person who is required to undergo a criminal history background check pursuant to this section who refuses to consent to, or cooperate in, the securing of a check of criminal history and background information shall be deemed unqualified as a license applicant or license holder.

(c) Where the criminal history background information demonstrates that a person has been convicted of a disqualifying conviction pursuant to (d) below, the Commission shall find the person disqualified from holding a license and shall not approve the person for participation in a license applicant or license holder.

(d) A disqualifying conviction is a conviction:

1. Of an indictable offense under this State's law, or equivalent offense under Federal law or any other state's law, that is substantially related to the qualifications, functions, or duties for which the license is required, which includes:

i. N.J.S.A. 2C:35-4.1.b (Booby traps in manufacturing or distribution facilities);

ii. N.J.S.A. 2C:35-6 (Employing a juvenile in a drug distribution scheme, or a similar indictable offense involving the use of a minor to dispense or distribute a controlled dangerous substance or controlled substance analog);

iii. N.J.S.A. 2C:35-8 (Distribution to persons under age 18);

iv. N.J.S.A. 2C:35-11.1 (Counterfeit drugs, medical devices);

v. N.J.S.A. 2C:36-5 (Delivering drug paraphernalia to person under 18 years of age); or

vi. Any State, other state, or Federal offense involving fraud, deceit, or embezzlement as a necessary element of the offense; and

2. Where not more than five years have passed since the date of that conviction, satisfactory completion of probation or parole, or release from incarceration, whichever is later.

(e) Notwithstanding the provisions at (c) above to the contrary, a person required to consent to a criminal history background check pursuant to (a) above shall not be disqualified on the basis of any disqualifying conviction disclosed by a criminal history record background check if the person has affirmatively demonstrated to the Commission clear and convincing evidence of rehabilitation. In determining whether clear and convincing evidence of rehabilitation exists, the Commission shall consider the following factors:

1. With respect to the license applicant or license holder, the nature and responsibility of the position that the person with a conviction would hold, has held, or currently holds;

2. The nature and seriousness of the crime or offense;

3. The circumstances under which the crime or offense occurred;

4. The date of the crime or offense;

5. The age of the person when the crime or offense was committed;
6. Whether the crime or offense was an isolated or repeated incident;
7. Any social conditions that may have contributed to the commission of the crime or offense; and

8. Any evidence of rehabilitation, including good conduct while incarcerated or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of those who have had the person under their supervision.

(f) Notwithstanding the provisions at (c) above to the contrary, the Commission may, in its discretion, offer provisional authority for a person to be an owner, principal, or employee of a cannabis business or testing laboratory license applicant or license holder for a period not to exceed three months if the person submits to the Commission a sworn statement attesting that the person has not been convicted of any disqualifying conviction.

1. Such person's provisional status does not guarantee a person's qualification.

2. Submission of a false attestation shall result in a determination of the person's disqualification, the revocation of the person's provisional status and any Cannabis Business Identification Card and may result in permanent ineligibility for the person to participate in a license applicant or license holder.

3. If a license applicant or license holder demonstrates a pattern of submission of such false attestations, the Commission may sanction the license applicant or license holder pursuant to N.J.A.C. 17:30-20, including with civil monetary penalties.

(g) In accordance with the provisions of the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq., and 52:14F-1 et seq., and the Uniform Administrative Procedures Rules, N.J.A.C. 1:1, any individual disqualified from owning, operating, or being employed by a cannabis business or testing laboratory license applicant or license holder shall be given an opportunity to challenge the accuracy of the disqualifying criminal history record prior to being permanently disqualified from participation.

1. Such challenges shall be made within 20 days of the disqualification.

17:30-7.13 Probity review

(a) After the receipt of an application from a license applicant, as part of verification and probity review, the Commission, at its discretion, may require additional information and the submission, by the license applicant, of supporting documents and other evidence before making a final decision on the application or issuing a license.

(b) At the discretion of the Commission, an owner, passive investor, management services contractor, or financial source may be required to submit documentation verifying the source of the funds provided to the license applicant, including, but not limited to, a promissory note, credit facility, debt instrument, guarantor agreement, or loan agreement, as well as closing documents.

(c) At the discretion of the Commission, the following persons or entities may be required to submit to a financial probity review:

1. Owners;
2. Principals;
3. Members of a governing body that governs an owner or a principal of a license applicant or license holder that is an entity;
4. Management services contractors contracting with a license applicant;
5. Any person or entity that holds at least 10 percent aggregate ownership interest in or who is a member of the executive team of a management services contractor contracting with a license applicant or license holder;
6. Financial sources that are not a qualified institutional investor;
7. Any person or entity that holds at least 10 percent aggregate ownership interest in or who is a member of the executive team of a financial source entity that is not a qualified institutional investor; and
8. Vendor-contractors.

(d) Financial probity review for a person for the purposes of verification for a license application and qualification for a license may include submission of:

1. A state driver's license, or other photo identification issued by the State, another state, or the Federal government;

2. A passport;

3. Any college diploma, transcript, or letter from a registrar providing confirmation of a person's status at an academic or educational institution;

4. Ownership documents for any vehicles, aircraft, or boats owned by the person or the person's business;

5. Any professional licenses held, and any documents related to sanctions imposed or known investigations in connection with those licenses;

6. Any criminal record history and any information regarding rehabilitation pursuant to N.J.A.C. 17:30-7.12(e);

7. Documentation for any business, aside from the license applicant, in which the person currently holds at least 25 percent ownership interest, including, but not limited to, partnership papers, operating agreements, and stock registry-stock certificates;

8. Summary of any pending litigation or past litigation that concluded during the previous five years, other than divorce, in which the person was involved, including docket number, venue, cause of action, named litigants, a copy of the complaint, and disposition or current status;

9. Any employment contract or offer letter between the license applicant and the person;

10. Most recently filed individual State, Federal, and foreign tax returns including Schedule K1, and, if applicable, most recently filed letter requesting an extension;

11. Most recently filed business State, Federal, and foreign tax returns for any business, aside from the license applicant, in which the person holds more than 50 percent ownership interest;

12. Any W-2 and 1099 forms for the prior three tax years;

13. Current account statement for any personal bank account, including a money market account, for which the person has signatory authority;

14. An original deed and purchase settlement statement, for any real estate property in which the person has an ownership interest;

15. The declaration page of any cash value life insurance policy held by the person and the names of all beneficiaries, including the name, trustee, and beneficiaries of any trust;

16. Current account statement for any pension or retirement account held by the person, including any 401k;

17. Current account statement for any account held by the person that holds securities, including a brokerage or investment account;

18. Any notes or loans receivable in the person's name;

19. Any notes or loans payable in the person's name;

20. Any documents relative to any contingent liabilities in which the person serves as a guarantor;

21. Any liens, judgments, or taxes payable levied against the person; and

22. Additional identifying information about the person's immediate family, including, but not limited to, marriage, death, and birth certificates.

(e) Financial probity review for an entity for the purposes of verification of license application submissions and qualification may include submission of:

1. Entity organizational chart;

2. Entity business formation documents;

3. List and summary of all fines or sanctions imposed by any agency regulating cannabis on the entity in any jurisdiction and the circumstances surrounding such fines or sanctions;

4. Summary of any pending litigation or past litigation that concluded during the previous five years in which the entity or its subsidiaries was involved, including docket number, court name, cause of action, named litigants, a copy of the complaint, and disposition or current status;

5. Documentation for any company, aside from the license applicant, in which the entity currently holds at least 25 percent ownership interest, including, but not limited to, partnership papers, operating agreements, and stock registry-stock certificates;

6. Most recently filed individual State, Federal, and foreign tax returns including Schedule K1, and, if applicable, most recently filed letter requesting an extension;

7. Most recently filed business State, Federal, and foreign tax returns for any business, aside from the license applicant, in which the entity holds more than a 50 percent ownership interest;

8. Minutes of the meetings of and resolutions passed by the entity's governing board for the previous two calendar years;

9. Most recently filed annual financial reports of the entity that are required to be filed with a national securities exchange or over the counter market;

10. Unaudited balance sheet and income statement or audited financial statement of the entity for the 24 months previous to the application;

11. Monthly bank statements for the previous year for all entity bank accounts related to the license applicant;

12. Any notes or loans receivable in the entity's name;

13. Any notes or loans payable in the entity's name;

14. Any liens, judgments, or taxes payable levied against the entity;

15. Where the entity is a publicly traded corporation or a private capital fund, a complete list of persons and entities with any ownership interest in the entity; and

16. Any other information the Commission deems relevant in determining whether to grant a license to the applicant.

(f) Probity review materials submitted to the Commission pursuant to N.J.S.A. 24:61-36 or this section shall not be considered public records pursuant to N.J.S.A. 47:1A-1 et seq., or the common law concerning access to government records.

17:30-7.14 Annual cannabis business license acceptance; inspection; issuance; commencement of operations

(a) After the Commission approves a license applicant applying for an annual license pursuant to N.J.A.C. 17:30-7.9, the Commission shall give written notice of approval to the applicant.

(b) Within five business days after receiving notice of approval, a license applicant shall notify the Commission as to whether it will:

1. Accept the license; or

2. Abandon the license, including if accepting the license would violate N.J.A.C. 17:30-6.8 or make the license applicant otherwise ineligible or if the circumstances of the license applicant have changed.

(c) Failure of the applicant to notify the Commission of its decision pursuant to (b) above, to accept or abandon the license, shall result in the license being deemed abandoned.

(d) If a license applicant from a lottery abandons a license, the license shall be offered to the next license applicant on the waitlist, pursuant to N.J.A.C. 17:30-6.2.

(e) If the license applicant accepts the annual license, it shall submit the annual license application approval fee, pursuant to N.J.A.C. 17:30-7.17.

(f) A license applicant shall have 365 days from the date of the notice of approval to request a final onsite assessment pursuant to (h) below.

(g) The license applicant has a continuing duty to seek approval for or report changes in the information submitted as part of the annual license application, pursuant to N.J.A.C. 17:30-9.2.

1. If a material change occurs to an application that is otherwise complete, the Commission may deem the application incomplete pending further review.

(h) After the license applicant has completed construction and preparation of its cannabis business premises or administrative office, the license applicant shall request, in writing, that the Commission conduct a final onsite assessment.

(i) The Commission shall conduct a final onsite assessment of the cannabis business and shall determine whether the cannabis business premises or administrative office, operations, plans, procedures, protocols, and actions are consistent with the annual license application and compliant with the Act, this chapter, and any additional requirements provided by the Commission.

(j) No later than 30 days after a cannabis business successfully passes such onsite assessment, unless the Commission finds the applicant is not in compliance with this subchapter or the Commission is notified by the relevant municipality that the applicant is not in compliance with its ordinances or regulations in effect at the time of the application, the Commission shall issue the annual license and provide the annual license to the license applicant.

1. An annual license shall be valid for one year from its date of issuance and may be renewed annually.

(k) If the Commission determines that the annual license applicant is not compliant with this chapter, or the license applicant does not undergo a successful final onsite assessment yielding a determination of compliance pursuant to (i) above within 365 days of the notice of approval, the Commission shall decline to issue the annual license approval and the license shall be returned to the Commission.

(l) Within 14 days of the issuance of an annual license, the license holder shall notify the Commission, in writing, of a proposed opening date for the cannabis business.

17:30-7.15 Annual microbusiness license conversion process; approval; denial; issuance

(a) After at least one year of operation, a microbusiness holding an annual license may apply to the Commission to convert to a standard cannabis business.

(b) The Commission shall review such application and verify the information contained in such application is truthful.

1. The license applicant shall cooperate with the Commission investigation and verification process and provide all information requested by Commission staff.

(c) The Commission shall approve a microbusiness for conversion to a standard cannabis business license if its application:

1. Is complete;

2. Includes:

i. Where applicable, a renovation or relocation plan that specifically addresses quality control procedures for the protection of cannabis and cannabis products from any contamination during the construction process and any other criteria the Commission requires;

ii. A recitation of the microbusiness's cultivation, manufacturing, or sales, as applicable, of the 180 days preceding the application, and an explanation for the request to convert to a standard cannabis business;

iii. An amended version of the most recent annual microbusiness license application or renewal that provides an overview of the license holder's proposed changes, including:

(1) A proposed site plan demonstrating the license holder's ability to operate as a standard cannabis business; and

(2) A proposed business plan demonstrating the license holder's ability to operate as a standard cannabis business;

iv. An attestation signed by a bona fide labor organization stating that the license applicant has entered into a labor peace agreement with such bona fide labor organization;

v. Submission of a microbusiness conversion application submission fee pursuant to N.J.A.C. 17:30-7.17; and

vi. Any other information the Commission deems relevant in determining whether to grant a conversion to the applicant; and

2. Complies with all provisions of the Act and this chapter.

(d) If the Commission determines that the criteria at (c) above have not been met, the Commission shall deny the conversion application and the license holder shall continue to operate as a microbusiness in compliance with the provisions at N.J.A.C. 17:30-6.7.

(e) If an application is denied, the Commission shall provide notice of the denial to the applicant in writing, which shall include the specific reason for the denial.

(f) The final decision on an application shall be considered a final agency decision, subject to judicial review by, and of which jurisdiction and venue for such review are vested in, the Appellate Division of the Superior Court pursuant to N.J.A.C. 17:30-20.10.

(g) The Commission shall provide written notice of approval to the microbusiness, authorizing the license holder to convert to a standard cannabis business.

(h) After approving an application, the Commission may conduct an onsite assessment of the cannabis business to determine whether the cannabis business premises or administrative office, operations, plans, procedures, protocols, and actions are compliant with the Act, this chapter, and any requirements or conditions provided by the Commission, and whether they are being implemented.

(i) If the Commission has determined compliance pursuant to (h) above, the Commission shall issue an amended license to the license applicant reflecting that the licensee is a standard cannabis business.

1. The requirements specific to a microbusiness, pursuant to N.J.A.C. 17:30-6.7 shall no longer apply to such license holder.

(j) If the Commission determines that the license holder is not compliant pursuant to (h) above, the license holder shall continue to operate as a microbusiness in compliance with N.J.A.C. 17:30-6.7.

(k) Notwithstanding a microbusiness's converted operations, any microbusiness authorized to become a standard business in accordance with this subchapter shall be counted towards the percentages of licenses that are designated for and only issued to microbusinesses pursuant to N.J.S.A. 24:61-36.f.(1).

17:30-7.16 Renewals

(a) A license holder holding an annual license, including an annual license converted from a conditional license, shall renew such annual license annually.

(b) The Commission may renew a license subject to conditions set forth in this chapter.

(c) A license holder shall submit a renewal application and the annual licensing fee pursuant to N.J.A.C. 17:30-7.17 no later than 90 days prior to the expiration of the current cannabis business license. Submission within 90 days of expiration of the current cannabis business license may result in a lapse in the cannabis business's licensure and subject the cannabis business to enforcement action.

(d) Pursuant to (c) above, the following may be grounds for denial of a license renewal application:

1. Failure to provide truthful, correct, and current information;
2. Failure to maintain compliance with the Act or this chapter;
3. Failure to maintain its diversely owned business, impact zone business, social equity business, or microbusiness status;
4. The inclusion of a person or entity not deemed qualified to hold a license; or
5. The commission of three or more major violations within the preceding 12 months.

(e) Renewal materials submitted to the Commission pursuant to N.J.S.A. 24:61-7.2 or this section shall not be considered a public record pursuant to N.J.S.A. 47:1A-1 et seq., or the common law concerning access to government records.

17:30-7.17 Cannabis business and testing laboratory fees

(a) The following fees shall be paid by conditional license applicants or license holders, as applicable:

1. Conditional microbusiness license application submission fee \$100
2. Conditional standard cannabis business license application submission fee \$200
3. Conditional microbusiness license application approval fee \$400
4. Conditional standard cannabis business license application approval fee \$800
5. Conditional microbusiness license conversion application submission fee \$100
6. Conditional standard cannabis business license conversion application submission fee \$200
7. Conditional microbusiness license conversion application approval fee \$400
8. Conditional standard cannabis business license conversion application approval fee \$800

(b) Submission fees represent 20 percent of the total application fee and shall be payable by all conditional license applicants.

(c) Approval fees represent 80 percent of the total application fee and shall only be payable by successful conditional license applicants.

(d) The following licensing fees shall be paid by license applicants or license holders, as applicable:

1. Annual microbusiness license application submission fee \$200
2. Annual standard cannabis business license application submission fee \$400
3. Annual microbusiness license application approval fee \$800

4. Annual standard cannabis business license application approval fee \$1,600
 5. Expanded ATC certification fee:
 - i. Medical cannabis cultivator expansion \$400,000
 - ii. Medical cannabis manufacturer expansion \$300,000
 - iii. Medical cannabis dispensary expansion \$100,000
 - iv. Vertically integrated ATC with three dispensaries \$1,000,000
 - v. Vertically integrated ATC with two dispensaries \$900,000
 - vi. Vertically integrated ATC with one dispensary \$800,000
 6. Annual microbusiness cannabis cultivator initial or renewal licensing fee \$1,000
 7. Annual standard cannabis cultivator initial or renewal licensing fee:
 - i. Tier I \$5,000
 - ii. Tier II \$10,000
 - iii. Tier III \$20,000
 - iv. Tier IV \$30,000
 - v. Tier V \$40,000
 - vi. Tier VI \$50,000
 8. Annual microbusiness cannabis manufacturer initial or renewal licensing fee \$1,000
 9. Annual standard cannabis manufacturer initial or renewal licensing fee:
 - i. With premises up to 10,000 square feet \$20,000
 - ii. With premises greater than 10,000 square feet \$30,000
 10. Annual microbusiness cannabis retailer initial or renewal licensing fee \$1,000
 11. Annual standard cannabis retailer initial or renewal licensing fee \$10,000
 12. Annual microbusiness cannabis wholesaler initial or renewal licensing fee \$1,000
 13. Annual standard cannabis wholesaler initial or renewal licensing fee \$10,000
 14. Annual microbusiness cannabis distributor initial or renewal licensing fee \$1,000
 15. Annual standard cannabis distributor initial or renewal licensing fee \$3,000
 16. Annual microbusiness cannabis delivery service initial or renewal licensing fee \$1,000
 17. Annual standard cannabis delivery service initial or renewal licensing fee:
 18. Microbusiness conversion application submission fee \$200
 19. Microbusiness conversion application approval fee \$800
 20. Testing laboratory license application submission fee \$400
 21. Testing laboratory license application approval fee \$1,600
 22. Testing laboratory initial or renewal licensing fee \$4,000
 23. Background investigation fee
 - i. Financial source \$1,000
 - ii. Management services contractor \$1,000
 - iii. Each owner or principal of cannabis business or testing laboratory \$250
 24. Cannabis Business Identification Card issuance fee \$25
- (e) Submission fees represent 20 percent of the total application fee and shall be payable by all annual license applicants.
- (f) Approval fees represent 80 percent of the total application fee and shall only be payable by successful annual license applicants.
- (g) An expanded ATC shall pay initial or renewal licensing fees in accordance with the license(s) it holds, pursuant to (d) above.
- (h) Annual initial or renewal licensing fees at (d) above shall include an annual license converted from a conditional license.
- (i) For the first year of operation for a cannabis business following the initial issuance of the cannabis business's license(s), the amount due in annual licensing fee shall be calculated by subtracting the amount of annual application submission and approval fees submitted pursuant to this subchapter from the total amount of annual licensing fees due for the cannabis business.
1. Background investigation fees shall not be considered application fees pursuant to this subsection.
 - (j) The following material change fees shall be paid by annual license holders, as applicable:

1. The fee to apply for a change of location of a cannabis business premises is:

- i. Standard cannabis business annual: \$10,000; or
- ii. Microbusiness: \$1,000;

2. The fee to apply for a change or modification of the cannabis business' capacity or physical plant is \$2,000;

i. This fee shall not apply to a microbusiness converting to a standard cannabis business pursuant to N.J.A.C. 17:30-7.15; and

3. The fee to apply for the transfer of more than 50 percent of ownership interest in a license holder is \$20,000.

i. Any financial source, management services contractor, owner, or principal may be required to pay background investigation fees as part of an ownership interest transfer.

(k) Fees shall be paid by certified check, money order, or any other form of payment approved by the Commission, and made payable to the "Treasurer, State of New Jersey."

(l) Fees shall be deposited in the Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Fund established pursuant to N.J.S.A. 24:61-50.

(m) Conditional license applicants or license holders and social equity business license applicants or license holders shall be exempt from any background investigation fee at (d)23 above.

SUBCHAPTER 8. CANNABIS BUSINESS IDENTIFICATION CARDS

17:30-8.1 Commission issuance of Cannabis Business Identification Cards; expiration

(a) Every owner, principal, management services contractor, employee, or volunteer of a cannabis business license holder or a testing laboratory that accesses the premises of a cannabis business or handles cannabis on behalf of a license holder or testing laboratory and every cannabis handler pursuant to N.J.S.A. 24:61-44.a shall be required to register with the Commission and be issued a Cannabis Business Identification Card.

(b) As part of the registration, the Commission shall verify that the person who is requesting a Cannabis Business Identification Card:

1. Is at least 21 years of age;
2. Has completed a training course, whether from a license applicant, a license holder, or a third-party that has been approved by the Commission and provides education on, at a minimum, the following topics:
 - i. History of cannabis use, prohibition, and legalization;
 - ii. Common cultivation techniques and strain/cultivar varieties;
 - iii. Chemotypes of cannabis;
 - iv. Packaging, labeling, and advertising;
 - v. Cultivation and manufacturing processes;
 - vi. Health education regarding the risks of cannabis use and over-use, including cannabis dependency;
 - vii. The medical use of cannabis; and
 - viii. Laws and rules pertaining to cannabis, including the Act and this chapter;
3. Has authorized a criminal history background check pursuant to N.J.A.C. 17:30-7.12(d) and does not have any disqualifying convictions that have not been found to be rehabilitated; and
4. Has paid the Cannabis Business Identification Card fee, pursuant to N.J.A.C. 17:30-7.17.

(c) Requests for a Cannabis Business Identification Card shall include:

1. A copy of the requesting person's driver's license or other unexpired photo identification issued by the State, another state, or the Federal government; and
2. Proof of criminal record background check, and where a person has a disqualifying conviction, proof of rehabilitation, pursuant to N.J.A.C. 17:30-7.12.

(d) A requesting person that meets the requirements of this subchapter shall be issued a Cannabis Business Identification Card, but shall not begin working at the cannabis business or handling cannabis items at a testing laboratory before the Commission issues a Cannabis Business Identification Card and the card is in the registrant's physical possession.

(e) Cannabis Business Identification Cards expire one year after the date of issuance, except a Cannabis Business Identification Card issued to cannabis business personnel with provisional approval, which shall expire three months after issuance.

(f) Cannabis Business Identification Cards shall contain:

1. The name of the person;
2. The name of the cannabis business or testing laboratory;
3. The dates of issuance and expiration; and
4. A photograph of the cardholder.

(g) The Commission may suspend, revoke, or refuse to renew a Cannabis Business Identification Card if the person who is applying for or who holds the card violates any provision of the Act or this chapter; makes a false statement to the Commission; or refuses to cooperate in any investigation by the Commission.

(h) A Cannabis Business Identification Card issued pursuant to this section is a personal privilege and authorizes work described in this section only for the cardholder.

17:30-8.2 Notice to Commission when employment or affiliation ceases

A cannabis business or testing laboratory shall notify the Commission within 10 business days of the date that a qualified person pursuant to N.J.A.C. 17:30-8.1(a) ceases to work at or be affiliated with the cannabis business or testing laboratory.

17:30-8.3 Surrender of a Cannabis Business Identification Card

Any Cannabis Business Identification Card holder shall surrender to the Commission the Cannabis Business Identification Card if they have been deemed no longer qualified to validly use or possess the card for any reason.

SUBCHAPTER 9. CANNABIS BUSINESS LICENSE HOLDER MATERIAL CONDITIONS AND REQUIREMENTS

17:30-9.1 Cannabis business premises

(a) A cannabis business shall conduct all operations authorized by the Act and this chapter at the address(es) identified on the license(s) issued by the Commission.

1. The cannabis business license shall identify the physical address of the cannabis business premises or administrative office.

2. All cannabis business premises, and the principal or administrative office of a cannabis business license holder shall be located within the State of New Jersey.

3. The Commission shall conduct an onsite assessment pursuant to N.J.A.C. 17:30-20.3 of each proposed cannabis business premises or administrative office prior to license issuance.

(b) A license holder may apply to change the location of the cannabis business premises or administrative office, pursuant to N.J.A.C. 17:30-9.2.

(c) For a microbusiness cannabis establishment, pursuant to N.J.A.C. 17:30-6.7, the entire physical plant shall occupy an area of no more than 2,500 square feet.

(d) The license holder shall display its license issued by the Commission in a conspicuous location at each cannabis business premises or administrative office at all times when the license holder is engaged in conduct authorized pursuant to the Act and this chapter involving cannabis.

17:30-9.2 Changes to license applicant or license holder; approval and notice; provisional approval

(a) Cannabis business license holders shall submit an application for an amended license, along with the applicable fee, if any, pursuant to N.J.A.C. 17:30-7.17, for the following material changes, a change:

1. In ownership, which shall include:
 - i. Addition or removal of owners or passive investors;
 - ii. Change in license holder entity structure, including any related mergers, acquisitions, or creation of new related entities;
 - iii. Change in ownership structure or ownership interest that results in a change of owner, pursuant to N.J.A.C. 17:30-9.3; and

iv. Any other changes to the ownership and financial information provided to the Commission pursuant to N.J.A.C. 17:30-7.10 and 7.13;

2. Of management services contractor or the terms of any management services agreement; pursuant to N.J.A.C. 17:30-6.9;

3. Of financial source or the terms of a financial source agreement (FSA) pursuant to N.J.A.C. 17:30-6.10;

4. Of location;

5. Of modification of capacity, physical plant, premises, or administrative office; or

6. Of name of the cannabis business.

(b) Failure to seek approval for such material changes pursuant to (a) above may result in sanctions upon the license holder pursuant to N.J.A.C. 17:30-20, including civil penalties, or suspension or revocation of any license issued to the license holder.

17:30-9.3 Transfers of ownership interest

(a) From the submission of a conditional license conversion application or an annual license application to at least two years after the cannabis business commences operations, a license holder holding an annual license shall not make any change to more than 50 percent of its ownership interest, except that:

1. A transfer of ownership interest in a license applicant or license holder from a deceased owner to their heir shall not be prohibited; and

2. A transfer of ownership interest in a license applicant or license holder from a deceased owner to their surviving spouse, domestic partner, or civil union partner, if the license was issued jointly to both the parties, shall not be prohibited.

(b) From the submission of the conditional license conversion application or an annual license application to at least two years after the cannabis business commences operations, a license holder may add new loans from new or existing financial sources or gifts.

(c) Until at least two years after the cannabis business commences operations, a diversely owned business license holder shall maintain all conditions required to qualify as eligible for its diversely owned business certification.

(d) Until at least two years after the cannabis business commences operations, a social equity business license holder shall maintain the conditions required to qualify for its social equity business status.

(e) A license holder operating as a microbusiness shall not transfer ownership interest such that the license holder no longer qualifies as a microbusiness.

(f) If the cannabis business ceases operations during the two-year period after the cannabis business commences operations, the license holder may not transfer the license to another entity; the license will be considered to be abandoned and will be returned to the Commission.

(g) A cannabis business license holder shall not provide, transfer, or sell, or offer to provide, transfer, or sell any ownership interest to or employ or offer to employ any Commission member or employee restricted from such transactions by the provisions of sections 33 through 35 of P.L. 2019, c. 153 (N.J.A.C. 24:61-26 through 28).

(h) The Commission retains discretion to determine when a transfer of ownership interests has occurred.

17:30-9.4 Ongoing material conditions and general requirements applicable to cannabis business license holders

(a) No person or entity shall operate a cannabis business without a Commission-issued license.

(b) A cannabis business shall only be operated under the name on the license, which shall be the legal entity name as found on the New Jersey business registration of the license holder.

(c) A license holder and its owners, principals, employees, management services contractors, financial sources, and vendor-contractors shall:

1. Maintain qualification to hold a license pursuant to N.J.A.C. 17:30-7.4, as applicable;

2. Comply with the Act and this chapter; and

3. Cooperate with the Commission and its staff.

(d) Upon request of the Commission, a license applicant or license holder shall provide, for any submission to the Commission, a redacted copy that may be released to the public.

1. Redactions shall be limited to information that is likely to be found to be exempted from the definition of a public record pursuant to N.J.S.A. 47:1A-1 et seq., or the common law on public records.

(e) A license holder shall make a good faith effort to recruit and employ, or contract with, as vendor-contractors, persons who would otherwise qualify for the provisions at N.J.A.C. 17:30-6.6(a)1 or 2. A “good faith effort” means that the license applicant or license holder shall demonstrate that it took all necessary and reasonable steps to achieve employee and vendor-contractor participation by the persons who are among the qualifying groups, which by their scope, quality, quantity, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient participation from such persons.

1. Good faith efforts shall extend beyond merely interviewing candidates from qualifying groups to include documentation of follow-up and offers of employment and contracting.

2. Good faith efforts shall include sufficient written documentation of the license applicant’s efforts to recruit qualifying persons, including a list of the names, addresses, and contact information of all potential employees and contractors, identifying those who qualify pursuant to N.J.A.C. 17:30-6.6(a)1 or 2, and whether they have accepted an employment or contracting offer, and the dates of contact.

3. Good faith efforts may include:

i. Coordinating meetings, including meetings in economically disadvantaged areas, at which qualifying persons could be informed of the employment and contracting opportunities;

ii. Advertising in general circulation, trade association, and minority-focused media concerning the opportunities for persons who have been affected by the criminalization of cannabis to participate in the regulated cannabis industry; and

iii. Contacting minority-, women-, and veteran-owned business organizations and educational institutions concerning the opportunities for persons who have been affected by the criminalization of cannabis to participate in the regulated cannabis industry.

4. The cannabis business shall submit *[monthly]* ***quarterly*** progress reports that include specifics on the good faith efforts being made to ensure the cannabis business’s social equity plan as presented in its application or certification to the Commission is being achieved. The Commission may request additional information from the cannabis business to assist in making a determination on whether good faith efforts are being made.

(f) A microbusiness license holder shall employ no more than 10 employees.

(g) The maintenance of a labor peace agreement with a bona fide labor organization by a licensed cannabis business, including an expanded ATC, shall be an ongoing material condition of the cannabis business’s license.

1. A microbusiness is exempted from this requirement.

(h) Where a majority of the employees of a cannabis business, including an expanded ATC, have voted to join a bona fide labor organization, failure to enter*[, or to make a good faith effort to enter,]* into a collective bargaining agreement within 200 days of the opening of such licensed cannabis business, may result in *[the suspension or revocation of the cannabis business’s license]* ***a referral to the National Labor Relations Board***.

1. A microbusiness is exempted from this requirement.

(i) A license holder shall maintain sanitary conditions throughout the cannabis business premises.

(j) A cannabis business shall seek to prevent the escape of odors associated with cannabis over the boundary of the property. Failure to engage in such an effort may result in sanctions, including civil monetary penalties.

(k) A license holder shall implement a plan to increase sustainability in its operations, which may include, but is not limited to:

1. A waste reduction plan;

2. A water usage reduction plan;

3. Biodynamic farming;

4. A sustainable packaging plan that reduces or eliminates the use of single-use plastics and promotes the use of recyclable or environmentally friendly packaging; or

5. A plan to use renewable energy to power its operations.

(l) A visitor entering a cannabis business premises must be accompanied by an escort with a Cannabis Business Identification Card at all times, except in the consumer area of a cannabis retailer.

1. A vendor-contractor's staff shall be considered to be a visitor during any time present at a cannabis business premises, except if the person is a management services contractor or other cannabis handler that possesses a Cannabis Business Identification Card, in accordance with N.J.A.C. 17:30-8.1(a).

(m) An expanded ATC issued cannabis business licenses pursuant to N.J.A.C. 17:30-7.1 shall be authorized to use the premises for all activities under the Act and the Jake Honig Compassionate Use Medical Cannabis Act, P.L. 2009, c. 307 (N.J.S.A. 24:61-1 et seq.), without being required to establish or maintain any physical barriers or separations between operations related to the medical use of cannabis and operations related to personal use of cannabis items.

1. As a condition of licensure, an expanded ATC shall meet the anticipated treatment needs of registered qualifying patients before meeting the retail requests of consumers, and the expanded ATC shall not make operational changes that reduce access to medical cannabis for registered qualifying patients in order to operate a cannabis business.

2. If the Commission finds an expanded ATC does not have sufficient quantities of medical cannabis or medical cannabis products available to meet the reasonably anticipated needs of qualifying patients, the Commission may issue fines, limit retail sales, temporarily suspend the expanded ATC's cannabis business licenses, or issue any other penalties included at N.J.A.C. 17:30-20.

3. Not fewer than 90 days prior to the date on which the expanded ATC's cannabis business license is set to expire after its first year of operations, in order to renew its cannabis business license pursuant to N.J.A.C. 17:30-7.16, an expanded ATC shall:

i. Certify to the Commission as to the continued material accuracy of the expanded ATC's previously approved ATC license application and its compliance with the provisions of the Act regarding its operations concerning cannabis or cannabis items; and

ii. Submit a new written approval from the municipality in which the expanded ATC is located, approving the continued operations as a cannabis business.

4. After the end of the second year of expanded ATC's licensure, the license renewal process pursuant to N.J.A.C. 17:30-7.16 shall be followed.

5. Nothing shall authorize an alternative treatment center that has not been licensed as an expanded ATC pursuant to N.J.A.C. 17:30-7.1 to:

i. Provide cannabis items to a person who is not a registered qualifying patient;

ii. Purchase or acquire cannabis items in a manner or from a source not permitted by the Jake Honig Compassionate Use Medical Cannabis Act, P.L. 2009, c. 307 (N.J.S.A. 24:61-1 et seq.); or

iii. Operate on the same cannabis business premises as a cannabis business license applicant or license holder, ***although it is not prohibited for an unaffiliated cannabis business and ATC to be located in the same multi-tenant building or strip mall in separate, unconnected premises***.

17:30-9.5 Prohibitions applicable to a cannabis business

(a) A license holder shall not allow any cannabis item or alcohol to be consumed on the premises or administrative offices of the cannabis business, or in public areas in the vicinity of such premises or administrative offices.

(b) Sales of food, beverages, alcohol, or tobacco on the premises of a cannabis business are prohibited, except that sales of food ***and non-alcoholic beverages*** to personnel of such cannabis business on the premises in an area separated from the physical plant are permitted.

(c) Entry onto the premises of a cannabis business by a person who is under the age of 21 is prohibited, unless the individual is accompanied by and supervised by a parent or legal guardian or is otherwise permitted by law.

(d) A license holder and its personnel and agents shall not sell or give for consumption any cannabis items to a person under 21 years of age.

(e) Pursuant to N.J.A.C. 17:30-9.4(b), a cannabis business shall not use, display, advertise, or operate under any alternate name, including, but

not limited to, any doing business as an alternate name, nor shall it hold itself out to be an entity operating under an alternate name.

1. This prohibition shall not apply to any alternative treatment center that was issued a permit prior to the effective date of P.L. 2019, c. 153 (N.J.S.A. 24:61-5.1 et seq.), and any alternative treatment center that was issued a permit subsequent to July 2, 2019, pursuant to an application submitted prior to that effective date, provided that the ATC's alternate name was authorized by the Commission prior to August 19, 2021, and that the ATC does not change its name or alternate name subsequent to August 19, 2021. An ATC that changes its name or alternate name on or after August 19, 2021, shall be subject to the prohibition on the use of alternate names.

17:30-9.6 Cannabis business operations manual

(a) Each cannabis business shall develop, implement, and maintain, on the premises or at the administrative office, an operation manual that addresses, at a minimum, the following:

1. Procedures for the oversight of the cannabis business, which shall include:

i. Adverse event reporting;

ii. Quality assurance and quality control;

iii. Recall of cannabis items, as needed or directed;

iv. Packaging and labeling of cannabis items;

v. Inventory control, storage, and diversion prevention;

vi. Waste disposal/sanitation;

vii. Accounting and tax compliance; and

viii. Reporting of test results, as applicable, based upon the class of license sought;

2. Procedures for safely cultivating, manufacturing, wholesaling, distributing, delivering, or selling cannabis, as applicable;

3. Procedures to ensure accurate recordkeeping, including inventory procedures to ensure that quantities cultivated do not suggest redistribution;

4. Employee, visitor, and facility security policies;

5. Safety procedures, including a disaster plan with procedures to be followed in case of fire or other emergencies, and personal safety and crime prevention techniques; and

6. A description of the cannabis business's:

i. Hours of operation and after-hour contact information;

ii. Fee schedule;

iii. Confidentiality and privacy standards regarding cannabis business operations and consumers, as applicable;

iv. For a cannabis retailer, criteria for refusing service to a consumer pursuant to unacceptable behavior; and

v. Procedures for ensuring consumers comply with cannabis business age verification policies.

(b) The license holder shall ensure that the operations manual of the cannabis business is available for inspection by the Commission, upon request.

17:30-9.7 Cannabis business recordkeeping

(a) A cannabis business shall maintain a system of recordkeeping that will permit the identification for purposes of recall of any batch of cannabis or lot of cannabis products from consumers when such cannabis items are found to be unsafe for use.

1. As part of this system, the cannabis business shall ensure that the container that contains the cannabis item at any stage in the process of cultivation, manufacturing, and sales bears an identifying name and number, and that the final packaged cannabis item contains all labeling information required pursuant to N.J.A.C. 17:30-16.3, to make it possible to determine the complete manufacturing history of the packaged cannabis item.

(b) A cannabis business shall maintain a complete and accurate confidential record of all sales of usable cannabis or cannabis products, including the cannabis business to whom the cannabis item is sold, if applicable, and the quantity, variety, form, and cost of the cannabis item.

1. Such records shall be kept and maintained for four years, either on-premises or at an off-site facility, in written or electronic form.

2. In order to ensure that individual privacy is protected, a cannabis retailer shall not collect and retain any personal information from consumers other than information typically acquired in a financial

transaction conducted by the holder of a Class C retail license concerning alcoholic beverages, as set forth at N.J.S.A. 33:1-12.

(c) A cannabis business shall retain every written report from a testing laboratory for any cannabis item that the cannabis business cultivated, manufactured, wholesaled, or sold to a consumer.

(d) A cannabis business shall maintain the following administrative records, as applicable:

1. An organizational chart;
2. A general description of any facilities to be used as the cannabis business premises or administrative offices and a floor plan identifying the square footage available and descriptions of the functional areas of the cannabis business; and
3. The standards and procedures by which the cannabis business determines the price it charges for usable cannabis or cannabis products and a record of the prices charged.

(e) A cannabis business shall maintain business records, including manual or digital records of assets and liabilities; monetary transactions; and journals, ledgers, and supporting documents, including agreements, checks, invoices, and vouchers, that the cannabis business keeps as its books of accounts.

(f) The Commission may request an audit of the financial records of a cannabis business by an independent certified public accountant approved by the Commission.

1. The cannabis business or testing laboratory shall bear all costs related to such audit;
2. Such audit shall be concluded within a reasonable period, as determined by the Commission; and
3. Results of a required audit shall be forwarded to the Commission.

(g) A cannabis business shall maintain documentation of any occurrence that is reported pursuant to N.J.A.C. 17:30-9.11 in an auditable form for at least two years after the reporting of such occurrence.

(h) If cannabis is disposed of or destroyed, a cannabis business shall maintain, for at least two years after the disposal, a written record of the date, the quantity disposed of, the manner of disposal, and the persons present during the disposal, with their signatures.

(i) A cannabis business shall maintain a personnel record for each owner, principal, management services contractor, employee, and volunteer of the license holder that includes, at a minimum, copies of the following, as applicable:

1. An application for employment or to volunteer;
2. A current Cannabis Business Identification Card;
3. Driver's license or other State-issued or Federally issued photo identification;
4. Certification confirming the person's or entity's submission to the jurisdiction of the courts of the State and agreeing to comply with the laws and rules of the State pertaining to personal use cannabis;
5. Documentation of verification of references;
6. Documentation of submission of fingerprint impressions for compliance with a criminal history record background check;
7. Job or role description or contract that includes the duties, authority, responsibilities, qualifications, and supervision of the job or role;
8. Documentation of all required training and the signed statement of the person indicating the date, time, and place that the individual person received such training and the topics discussed, including the name and title of presenters;
9. Documentation of periodic performance evaluations; and
10. Documentation of any disciplinary action taken.

(j) The license holder shall maintain personnel records, including, but not limited to, those listed at (i) above:

1. For the purposes of this subsection, for at least 12 months after termination of the person's affiliation with the cannabis business; and
2. For all other business purposes, in accordance with their business practice.

17:30-9.8 Cannabis business training

(a) In addition to any workplace trainings required by law, each owner and principal of a license holder that handles cannabis and each employee and volunteer and any management services contractor staff of a license holder shall complete at least eight hours of ongoing training each calendar year.

(b) The training pursuant to (a) above shall be tailored to the roles and responsibilities of the person's job or role function and shall include:

1. State and Federal laws regarding cannabis;
2. State and Federal laws regarding privacy and confidentiality;
3. Informational developments in the field of cannabis;
4. The proper use of security measures and controls that have been adopted; and
5. Specific procedural instructions for responding to an emergency, including a robbery or workplace violence.

(c) In order to provide such training pursuant to (a) above, a cannabis business shall either:

1. Develop, implement, and maintain on the premises, or at the administrative office, a training curriculum; or
2. Enter into contractual relationships with outside resources capable of meeting personnel training needs.

(d) A person shall not begin working at the cannabis business or handling cannabis items at a testing laboratory before completing initial trainings in accordance with N.J.A.C. 17:30-8.1(b), unless otherwise approved by the Commission.

17:30-9.9 Cannabis business workplace alcohol and drug policy and smoke-free workplace policies; employee assistance program

(a) A cannabis business may establish, implement, and adhere to any of the following policies governing conduct of personnel while performing work for the cannabis business:

1. A written smoke-free workplace policy;
2. A written policy prohibiting cannabis business personnel from possessing, consuming, or being under the influence of an illicit controlled dangerous substance or alcohol; or
3. A written policy prohibiting cannabis business personnel from consuming or being under the influence of cannabis at the workplace, provided that no cannabis business shall infringe upon the rights of qualifying patients pursuant to P.L. 2019, c. 153 (N.J.S.A. 24:6I-5.1 et seq.).

(b) The license holder shall ensure that policies pursuant to (a) above are available to the Commission, upon request.

(c) The license holder shall maintain a contract with an approved New Jersey employee assistance program.

17:30-9.10 Security

(a) Each cannabis business shall provide effective controls and procedures to guard against unauthorized access to the cannabis business premises or the cannabis business's electronic systems, theft, and diversion of cannabis. Such controls may include, but are not limited to, systems to protect against electronic records tampering.

(b) At a minimum, each cannabis business shall:

1. Install, maintain in good working order, and operate a safety and security alarm system at its cannabis business premises that will provide suitable protection against theft and diversion and that provides, at a minimum:
 - i. Immediate automatic or electronic notification to alert cannabis business personnel and State or local police agencies to an unauthorized breach of security or an alarm or system failure at the cannabis business; and
 - ii. A backup system that activates immediately and automatically upon a loss of electrical support and that immediately issues either automatic or electronic notification to State or local police agencies of the loss of electrical support;
2. Implement appropriate security and safety measures to deter and prevent the unauthorized entrance into areas containing cannabis and the theft of cannabis;
3. Implement security measures that protect the cannabis business premises, consumers, and cannabis business personnel;
4. Establish a protocol for the testing and maintenance of the security alarm system;
5. Conduct maintenance inspections and tests of the security alarm system at the cannabis business premises at intervals not to exceed 30 days from the previous inspection and test and promptly implement all necessary repairs to ensure the proper operation of the alarm system;

6. In the event of a failure of the security alarm system due to a loss of electrical support or mechanical malfunction that is expected to last longer than eight hours:

- i. Notify the Commission pursuant to N.J.A.C. 17:30-9.11; and
- ii. Provide alternative security measures approved by the Commission or close the authorized cannabis business premises impacted by the failure or malfunction until the security alarm system is restored to full operation;

7. Keep access from outside the cannabis business premises to a minimum and ensure that access is well controlled;

8. Limit entry into areas where cannabis is held to authorized personnel; and

9. Equip interior and exterior premises with electronic monitoring, video cameras, and panic buttons.

i. A video surveillance system shall be installed and operated at the cannabis business premises to clearly monitor all critical control activities of the cannabis business and shall be in working order and operating at all times. The cannabis business shall provide access for remote viewing by the Commission. This system shall be approved by the Commission prior to license issuance.

ii. The original tapes or digital pictures produced by this system shall be stored in a safe place with a 30-day archive;

10. Keep the outside areas of the cannabis business premises and its perimeter well-lighted.

i. Exterior lighting must be sufficient to deter nuisance and criminal activity and facilitate surveillance and must make reasonable efforts to not disturb surrounding businesses or neighbors; and

ii. The video surveillance system shall be supported by adequate security lighting, which shall illuminate all entrances and exits, and which may be modified, as necessary, to include motion control sensors to protect cultivation light-dark cycles, as applicable; and

11. Provide law enforcement and neighbors within 100 feet of the cannabis business premises with the name and phone number of a staff member to notify during and after operating hours to whom they can report problems with the establishment.

(c) The security alarm system and video surveillance system pursuant to (b) above shall be continuously monitored, 24 hours a day, seven days a week.

1. Monitoring of the security alarm system and video surveillance system may be conducted off-site.

(d) Subsections (b) and (c) above do not apply to the administrative office of a cannabis distributor or delivery service where cannabis items are not possessed or stored.

17:30-9.11 Reportable events involving risk of inventory loss

(a) A cannabis business, upon becoming aware of a reportable loss, discrepancies identified during inventory, diversion, or theft, whether or not the cannabis, funds, or other lost or stolen property is subsequently recovered and/or the responsible parties are identified, and action taken against them, shall:

1. Immediately notify appropriate law enforcement authorities by telephone; and

2. Notify the Commission no later than three hours after discovery of the event.

(b) The cannabis business shall notify the Commission within 24 hours by telephone, followed by email notification within five business days of any of the following:

1. An alarm activation or other event that requires a response by public safety personnel;

2. A breach of security;

3. The failure of the security alarm system due to a loss of electrical support or mechanical malfunction that is expected to last longer than eight hours; and

4. Corrective measures taken, if any.

17:30-9.12 Accessibility of cannabis item storage areas

(a) A cannabis business shall limit access to cannabis item storage areas to the minimum number of authorized personnel necessary to maintain safe and orderly operations.

1. When it is necessary for visitors to be present in or pass through cannabis item storage areas, the cannabis business shall provide for adequate observation of the area by cannabis business personnel whom

the license holder specifically authorized by policy or job description to supervise the activity.

2. The cannabis business shall, in its standard operating procedures, identify the personnel with authorization to access the storage area.

(b) Each cannabis business shall securely store finished usable cannabis and cannabis products that are ready for sale in a locked area, which may include a locked room, cage, or safe, with adequate security and limited access.

1. For purposes of this subsection, "adequate security," at a minimum, shall be assessed, established, and maintained based on:

i. The quantity of cannabis items kept on-hand;

ii. The cannabis business's inventory system for tracking and distributing cannabis items;

iii. The number of owners, principals, employees, volunteers, management services contractor staff, or vendor-contractors who have or could have access to the cannabis items;

iv. The geographic location of the cannabis business and its associated environmental characteristics, such as the remoteness of the premises from local populations and the relative level of crime associated with the area;

v. The scope and sustainability of the security alarm system; and

vi. The findings of root cause analyses of any breaches of security and/or inventory discrepancies for cannabis items at that location.

17:30-9.13 Inventory

(a) Each cannabis business, at a minimum, shall:

1. Utilize the inventory tracking system designated by the Commission pursuant to N.J.A.C. 17:30-3.12.

i. Cannabis businesses shall utilize any plant tags, product identification tags, or stamps designated by the Commission pursuant to N.J.A.C. 17:30-3.6 and 13.4.

ii. Cannabis business shall be responsible for any fees associated with plant tags, product identification tags, or stamps designated by the Commission;

2. Conduct an initial comprehensive inventory of all cannabis in the possession of the cannabis business, including cannabis available for cultivation or manufacturing, finished usable cannabis available for sale, immature and mature cannabis plants, unusable cannabis, and each type of cannabis product at the authorized cannabis business premises on the date the cannabis business first engages in the cultivation, manufacturing, wholesaling, or sale of cannabis.

i. An inventory shall include damaged, defective, expired, or adulterated cannabis awaiting disposal, including the name, the quantity, and the reasons for which the cannabis business is maintaining the cannabis.

ii. The initial comprehensive inventory shall be reported to the Commission utilizing the inventory tracking system;

3. Establish inventory controls and procedures for the conduct of inventory reviews and comprehensive inventories of cultivating cannabis, and stored usable and unusable cannabis;

4. Update product inventories on at least a daily basis;

5. Conduct a monthly inventory audit of cultivating cannabis, and stored usable and unusable cannabis;

6. Conduct a comprehensive annual inventory audit at least once every year from the date of the previous comprehensive inventory; and

7. Promptly transcribe inventories.

(b) The record of an inventory conducted pursuant to this section shall include, at a minimum, the date of the inventory, a summary of the inventory findings, and the name, signature, and title of the persons who conducted the inventory.

17:30-9.14 Destruction or disposal of cannabis waste and hazardous waste; expiration of license procedures

(a) A license holder shall manage non-hazardous unusable cannabis, cannabis waste, or cannabis items, including returned, recalled, or usable cannabis or cannabis products that have expired, by either: destroying the material through incineration; or rendering the material unrecoverable, unrecognizable, and useless for diversion, and then disposing of the material by either transporting it off-site as ***compost or*** solid waste or composting it on-site.

1. If a license holder chooses to destroy the material by incineration, it shall ensure the material is transported in accordance with (a)3 below, to a New Jersey Department of Environmental Protection-authorized incinerator and is actually incinerated.

2. If a license holder chooses to dispose of the material as solid waste or compost, the license holder:

i. In a secured, locked area on the cannabis business premises that is visible to a security camera, shall render the material irrecoverable, unrecognizable, and useless for diversion, by:

(1) Finely shredding or grinding the cannabis or cannabis waste; and

(2) Mixing the shredded or ground cannabis waste with safe, non-toxic, biodegradable material, such as soil*,* [or]* cat litter, ***or compostable material,*** so the resulting mixture is at least 50 percent non-cannabis waste by volume;

ii. Shall store the mixed cannabis waste in a secure, locked container or space until it can be disposed; such container may be outside the facility, provided it is within view of a security camera; and

iii. Shall dispose of such mixed cannabis waste by:

(1) Ensuring the material is transported in accordance with (a)3 below, to a solid waste disposal facility holding the applicable solid waste permit from the New Jersey Department of Environmental Protection and is disposed of; or

(2) Composting it on-site, in a secure, locked container or space, as approved by the Commission, ***or*** at a facility owned by the cannabis business and operated in compliance with all applicable New Jersey Department of Environmental Protection statutes and rules, provided all materials in the mixture are compostable materials*, **or by transporting the compost to a facility authorized by the Department of Environmental Protection to compost off site*.**

3. For the transportation of non-hazardous solid waste that is unusable cannabis, cannabis waste, or cannabis items to a facility for destruction or disposal, a license holder shall either register as a Self Generator Solid Waste Transporter to transport the waste itself, in accordance with N.J.A.C. 7:26-3.2(a) and 16.3, or use standard solid waste collection and contract with a vendor-contractor that is a licensed and registered Commercial (A901) Solid Waste Transporter, in accordance with N.J.S.A. 13:1E-126 et seq., to transport the mixed cannabis waste on its behalf.

4. The license holder and any person transporting, destroying, or disposing of the mixed cannabis waste shall comply with N.J.A.C. 7:26-2, 2B, and 3 and the county or district Solid Waste Management Plan for the county or district in which the premises are located, in accordance with N.J.A.C. 7:26-6.

***5. An electronic smoking device shall not be incinerated or rendered unrecoverable, unrecognizable, and useless for diversion. All vaporized formulation shall be removed from the device. The electronic smoking device:**

i. If it is an "all-in-one" e-cigarette that includes a battery that is not removable, shall be treated as hazardous waste (code D003) in accordance with (b) below and 40 CFR 262 et seq.; or

ii. If it is a multi-part device and can be split into a removable rechargeable battery and another cartridge piece not containing a battery, the battery may be disposed of as universal waste and sent for recycling, in accordance with 40 CFR 273 et seq., and the remaining cartridge may be disposed of as solid waste in accordance with N.J.A.C. 7:26.*

(b) A license holder shall dispose of any waste that is considered hazardous pursuant to N.J.A.C. 7:26G-6.1, in accordance with all applicable New Jersey Department of Environmental Protection statutes and rules.

1. A license holder shall make an accurate determination as to whether the discarded cannabis or cannabis waste is a hazardous waste, in accordance with 40 CFR 262.11(a) through (d).

(c) The license holder shall create and maintain a written record of the destruction or disposal of the cannabis by the cannabis business and weigh the cannabis and update it in the inventory prior to destruction or disposal, including any information required at N.J.A.C. 17:30-9.7.

(d) A license holder may, in accordance with this chapter, sell its inventory to another licensed cannabis business before its license expires.

If a license expires without being renewed or is revoked, the license holder shall:

1. Immediately discontinue any production or sale of cannabis items;

2. Weigh any cannabis in its inventory and update it in the inventory prior to disposal or destruction;

3. Destroy or dispose of all unused cannabis or surplus inventory still in its possession within 72 hours of the license expiring and provide proof to the Commission of such destruction or disposal; and

4. Create and maintain a written record of the disposal of the cannabis.

(e) Within 10 business days after destroying or disposing of the cannabis, the license holder or former license holder shall notify the Commission, in writing, of the amount of cannabis destroyed or disposed of, including the form, weight, quantity, and any other information requested by the Commission.

17:30-9.15 Secure transport

(a) A cannabis business may securely transport cannabis items to another cannabis business premises, or it may use a licensed cannabis distributor for such transport.

(b) A cannabis business may transport between multiple cannabis business premises anywhere in the State using a delivery vehicle pursuant to this section.

(c) A cannabis business shall ensure each delivery vehicle is equipped with:

1. A secure lockbox or secure cargo area, which shall be used for the sanitary and secure transport of cannabis.

i. In transit, cannabis items shall be locked and stored in the secure lockbox or secure cargo area until the cannabis business staff member arrives at the receiving cannabis business;

2. A Global Positioning System (GPS) device for identifying the geographic location of the delivery vehicle, either permanently or temporarily affixed to the delivery vehicle while the delivery vehicle is in operation.

i. The device shall remain active and in the possession of the cannabis business staff member at all times during transport.

ii. At all times, the originating cannabis business or the cannabis distributor shall be able to identify the geographic location of all delivery vehicles that are transporting cannabis items and shall provide that information to the Commission, upon request; and

3. Functioning heating and air conditioning systems appropriate for maintain correct temperatures for storage of cannabis and cannabis products.

(d) A cannabis business shall maintain current hired and non-owned automobile liability insurance sufficient to insure all delivery vehicles in the amount of at least \$1,000,000 per occurrence or accident.

(e) A cannabis business shall ensure that a delivery vehicle bears no markings that would either identify or indicate that the vehicle is used to transport cannabis.

(f) A cannabis business shall provide the Commission with information regarding any delivery vehicles, including the vehicle's make, model, color, vehicle identification number, license plate number, and vehicle registration.

(g) A cannabis business shall staff each delivery vehicle with at least one cannabis business staff member.

1. The cannabis business staff member shall not leave cannabis items in an unattended delivery vehicle unless the vehicle is locked and equipped with an active vehicle alarm system. In no case shall cannabis items be left in a delivery vehicle overnight or outside the operating hours of the cannabis business conducting the transport.

2. The cannabis business staff member shall have access to a secure form of communication with the cannabis business, such as a cellular telephone, at all times that the delivery vehicle contains cannabis items.

3. The cannabis business staff member shall possess their Cannabis Business Identification Card and their valid non-probationary driver's license appropriate to the type of delivery vehicle driven at all times during transport and shall present them to Commission staff or law enforcement officials, upon demand.

4. Before transport, the cannabis business staff member shall create a physical or electronic copy of the transport request. During transport, the cannabis business staff member shall maintain a copy of the transport

request and shall make it available, upon request, to State and local law enforcement, and State and local regulatory authorities and agencies.

5. Only Cannabis Business Identification Card holders shall be allowed in a delivery vehicle.

6. During transport, the cannabis business staff member driving the delivery vehicle shall comply with this section and all New Jersey laws, rules, and regulations for the operation of vehicles on public roadways.

(h) All transport of cannabis items shall be conducted by a person. A transport of cannabis items shall not be made through the use of an unmanned vehicle, which shall include a drone.

(i) A cannabis business shall ensure that transports are completed in a timely and efficient manner.

1. The cannabis business staff member shall only travel between originating cannabis business premises and receiving cannabis business premises and shall not deviate from the delivery path described in this subsection, except in the event of emergency, or as necessary, for rest, fuel, or vehicle repair stops, or because road conditions make continued use of the route or operation of the vehicle unsafe, impossible, or impracticable.

2. The process of transport begins when the cannabis business staff member leaves the originating cannabis business premises with the purchase order of cannabis items and ends when the cannabis business staff member furnishes the cannabis items to the receiving cannabis business premises.

(j) Each cannabis business shall maintain a written or electronic record of each transport of cannabis; for each transport, such record shall include:

1. The date and time that the transport began and ended;
2. The name, Cannabis Business Identification Card number, and signature of the cannabis business staff member performing the transport;
3. The weight of the cannabis or cannabis items transported;
4. The batch number of the usable cannabis or the lot number of the cannabis product, the name of the strain/cultivar, and the form of the cannabis product; and

5. The signature of the cannabis business staff member of the receiving cannabis business attesting to receipt of the goods.

(k) A cannabis business shall report any vehicle accidents, diversions, losses, or other reportable events that occur during transport to the Commission in accordance with N.J.A.C. 17:30-9.11.

(l) A municipality may not restrict the transportation of cannabis items through, or within, that municipality by adoption of a municipal ordinance or any other measure, and any restriction to the contrary shall be deemed void and unenforceable.

(m) Where a transport is attempted and not completed and the cannabis item remains in the possession of the cannabis business personnel conducting the transport, the personnel shall return the cannabis item to the originating cannabis business. The cannabis business may restock the product, logging the product's amended status in the business's internal inventory. Such items must be in new, unopened condition prior to restocking.

(n) While engaging in the secure transport of cannabis items, cannabis paraphernalia, and related supplies, a cannabis distributor or other cannabis business may also transport other unrelated non-Federally regulated goods or shipments in the delivery vehicle where all cannabis items, cannabis paraphernalia, and related supplies are segregated from the non-Federally regulated goods or shipments, in their own separate secure lockbox or secure cargo area.

(o) A cannabis business, including a cannabis distributor, shall provide the Commission with a list of all cannabis business staff members that will be driving delivery vehicles for secure transport, documentation that they have received training for the position, and verification that they have valid non-probationary driver's licenses appropriate to the type of delivery vehicle driven.

17:30-9.16 Cannabis business complaint process

(a) A cannabis business shall establish standard operating procedures for receiving and recording complaints associated with usable cannabis or cannabis products that it has cultivated, manufactured, sold, or distributed that shall include:

1. A process for submission of a complaint to the cannabis business;

2. A procedure for notifying all cannabis businesses that participated in the supply chain of the product identified in the complaint;

3. A procedure for reviewing the complaint;

4. A procedure for investigating the complaint;

5. A procedure for the review and approval of the findings by cannabis business personnel that are responsible for quality control; and

6. A procedure for follow-up action of any investigation performed and a response to the complainant.

(b) Based on the procedures established at (a) above, a cannabis business shall make a determination as to whether the complaint may be evidence of an adverse event.

(c) A cannabis business shall establish procedures for complaints involving adverse events, which shall include:

1. Collecting data necessary to investigate the adverse event, including, but not limited to:

i. Noting the identifiable consumer who is reported to have experienced the adverse event;

ii. Noting the initial reporter of the adverse event or identifying that the initial reporter requests to remain anonymous;

iii. Noting the identity of the specific usable cannabis or cannabis product used, if known, including batch or lot number, and the name of the cannabis business that sold the product to the identifiable consumer; and

iv. A description of the adverse event based on information received from the identifiable consumer at (c)li above, and the initial reporter at (c)lii above;

2. Reporting the adverse event to the Commission within 48 hours of becoming aware of the adverse event, including all information and data collected pursuant to this subchapter;

3. Reporting the adverse event to all cannabis businesses who participated in the supply chain of the product involved in the adverse event or the products batch or lot;

4. Investigating the adverse event to determine:

i. If there was a deviation from the standard operating procedure in the cultivation of the batch or the manufacturing of the lot, which shall be done by reviewing cultivation or manufacturing logs; and

ii. If the batch or lot meets specifications, which shall be done by submitting parts of the retention samples of the batch or lot to a testing laboratory for testing;

5. Determining if an adverse event requires a product recall; and

6. A procedure for communicating the adverse event standard operating procedure to:

i. Cannabis business staff members;

ii. Consumers of the cannabis business; and

iii. Other cannabis businesses that purchase cannabis items from or provide cannabis items to the cannabis business.

(d) Adverse events shall be reported to the Commission within 48 hours.

(e) The review and investigation of a complaint or adverse event, and the findings and follow-up action of any investigation performed, must extend to all related batches or lots and relevant records and to all cannabis businesses involved in the supply chain of the product identified in the complaint.

1. Related batches or lots may include, but are not limited to, batches or lots of the same product, other batches or lots processed on the same equipment or during the same time period, or other batches or lots produced using the same components or packaging components.

(f) The cannabis business must keep a written record of the complaint or adverse event and its investigation, including:

1. Identification and batch or lot number of the product;

2. Date the complaint was received and the name, address, or telephone number of the complainant, if available.

i. Anonymous complaints shall be logged even when no name, address, or telephone number is provided;

3. Nature of the complaint including, if known, how the product was used;

4. All notifications provided to the Commission, other cannabis businesses, consumers, and to the public;

5. Names of all personnel involved in the complaint process and their roles;

6. Findings of the investigation and follow-up action taken when an investigation is performed; and

7. Response to the complainant, if applicable.

(g) Such records required at (f) above shall be kept and maintained for four years, either on-premises or at an off-site facility, in written or electronic form.

17:30-9.17 Cannabis business recall process

(a) A cannabis business shall develop and implement a recall plan addressing at a minimum:

1. Factors that necessitate a recall procedure, including if testing laboratory testing analysis finds that the batch or lot fails to meet specifications;

2. Personnel responsible for initiating and implementing a recall;

3. Notification protocols, including as required at N.J.A.C. 17:30-9.16; and

4. Receipt, handling, and disposition of returned usable cannabis or cannabis products.

(b) A cannabis business shall establish a standard operating procedure for publicly communicating a recall of usable cannabis or cannabis products manufactured from that usable cannabis or other cannabis products that present a probability that exposure to the product could cause serious adverse health consequences or temporary or medically reversible adverse health consequences; this standard operating procedure shall include:

1. A mechanism to contact all consumers who have, or could have, obtained the usable cannabis or cannabis products manufactured from that usable cannabis or other cannabis products from the cannabis business, which communication must include information on the procedure for return of the recalled product and an offer to pay reimbursement for the recalled product;

2. A mechanism to contact all cannabis businesses that receive cannabis items from or provide cannabis items to the cannabis business;

3. Instructions for the return or destruction of any recalled cannabis items by consumers or cannabis businesses;

4. Procedures for the issuance of refunds in conjunction with a recall; and

5. Communication and outreach through traditional and social media, as necessary and appropriate.

(c) The cannabis business shall collect all recalled cannabis items that are returned, have cannabis business personnel that supervise quality control review it, track it in inventory control, and segregate it in quarantine until the Commission authorizes disposal, at which point the cannabis business shall dispose of it in a manner that ensures that it is unusable.

(d) The cannabis business should periodically conduct a mock recall to assess the effectiveness of the recall plan.

(e) The Commission may, at its discretion, order a cannabis business to undertake a recall.

(f) A cannabis business shall comply and cooperate with any recalls ordered by the Commission.

SUBCHAPTER 10. CANNABIS CULTIVATOR AUTHORIZED CONDUCT

17:30-10.1 Cannabis cultivator premises

(a) In no case shall a cannabis cultivator operate or be located on land that is valued, assessed, or taxed as an agricultural or horticultural use pursuant to the Farmland Assessment Act of 1964, P.L. 1964, c. 48 (N.J.S.A. 54:4-23.1 et seq.).

(b) A cannabis cultivator shall produce cannabis only at the cannabis business premises authorized in the license, including any indoor or outdoor areas.

1. All cannabis cultivation shall take place in an enclosed, locked area or facility, which includes, where a cannabis cultivator is engaging in outdoor cultivation, the outdoor grow area structures authorized pursuant to N.J.A.C. 17:30-10.3.

2. Access to such enclosed, locked area or facility shall be limited to an owner, principal, employee, volunteer, of a license holder or the staff members of a license holder's management services contractor that

possesses a Cannabis Business Identification Card and are authorized by the cannabis business to access the facility.

(c) A cannabis cultivator shall comply with N.J.A.C. 8:21-3A.8 and 3A.9.

(d) A cannabis cultivator microbusiness shall have a total ***mature*** cannabis ***plant*** grow canopy area that does not exceed 2,500 square feet, measured on a horizontal plane, and 24 feet, measured vertically above that plane.

17:30-10.2 Cannabis cultivator authorized conduct; prohibitions

(a) A cannabis cultivator holding a Class 1 Cannabis Cultivator license issued by the Commission shall be authorized to:

1. Possess, propagate, germinate, plant, cultivate, grow, harvest, dry, cure, process, package, dispose of, and destroy cannabis; and

2. Transport, transfer, distribute, supply, and sell this usable or unusable cannabis to other cannabis cultivators or to cannabis manufacturers, or sell usable cannabis to cannabis wholesalers, or cannabis retailers.

(b) A cannabis cultivator holding a Class 1 Cannabis Cultivator license issued by the Commission shall not be authorized to:

[i.] ***1.*** Manufacture or otherwise create cannabis products; or

[ii.] ***2.*** Transport, transfer, distribute, supply, or sell cannabis, usable cannabis, cannabis products, paraphernalia, or related supplies to consumers.

(c) Where a cannabis cultivator sells unusable cannabis to other cannabis cultivators or to cannabis manufacturers for the purposes of manufacturing, the cannabis cultivator shall ensure such unusable cannabis does not have any mold, rot, or disease, ***through a visual inspection,*** and that it meets specifications in quality control ***[testing]*** ***for unusable cannabis*.**

(d) A cannabis cultivator shall not be limited in the number of strains/cultivars of cannabis cultivated.

(e) A cannabis cultivator shall comply with applicable laws and rules of the New Jersey Department of Agriculture and attendant inspection and enforcement activities.

(f) A cannabis cultivator may label cannabis it cultivates as "organic" if the cannabis cultivator meets the organic program standards as defined at N.J.A.C. 2:78. ***Use of such label shall not suggest or indicate that the cultivator, or its practices, has been certified or verified by any local, State, or Federal government agency.***

(g) In accordance with N.J.S.A. 54:47F-1A, a cannabis cultivator shall collect, from the purchasing or acquiring cannabis establishment, any Social Equity Excise Fee imposed by the Commission on the sale or transfer of usable cannabis by such cannabis cultivator to any other cannabis establishment other than another cannabis cultivator and be personally liable for such fee.

(h) A cannabis cultivator microbusiness shall possess no more than 1,000 mature cannabis plants each month.

17:30-10.3 Additional outdoor cultivation requirements

(a) Outdoor cultivation may be permitted, where the license holder complies with the Act and this chapter, and where approved by the municipality in which the cannabis business is located.

1. Outdoor cultivation may occur in a full greenhouse with rigid walls, a partial greenhouse, a hoop house, or other non-rigid structure, or an expanse of open or cleared ground fully enclosed by a physical barrier.

(b) The outdoor grow area shall be situated to maintain the greatest achievable level of privacy and security.

(c) The property that contains an outdoor grow area and the outdoor grow area itself shall each be securely surrounded by fencing and locked gates on the entire perimeter, constructed in accordance with the Uniform Construction Code, to prevent access to the grow area by unauthorized persons.

1. Fencing shall be constructed of metal chain links or another similarly secure material and shall measure at least eight feet from the ground to the top. All support posts shall be securely anchored. Fencing shall meet the requirements of the relevant municipal code provisions.

2. Locks on gates shall be commercial-grade, non-residential door locks.

(d) The outdoor grow area shall be protected by a security alarm system and 24-hour video surveillance system that is continuously monitored and

capable of detecting power loss, pursuant to N.J.A.C. 17:30-9.10, to ensure surveillance of the entire perimeter of the grow area and overall portions of the security fences and all gates.

17:30-10.4 Cannabis cultivator production management tiers

(a) All cannabis cultivators shall be assigned a cultivation production management tier at license issuance and reassigned at renewal, as necessary.

(b) The cannabis cultivator shall accurately calculate its plant count and mature cannabis plant grow canopy area.

1. Square footage of a mature cannabis plant grow canopy area is measured horizontally, starting from the outermost point of the furthest plant in a grow canopy area and continuing around the outside of all plants located within the mature cannabis plant grow canopy area.

2. If a vertically tiered or shelving system is included in the cultivation area, the surface area of each tier or shelf must be included in calculating the grow canopy area.

3. A mature cannabis plant grow canopy area is the total square feet in which a cannabis cultivator plants and grows cannabis plants, and does not include areas exclusively used for harvesting, drying, curing, packaging, labeling, or storing cannabis.

(c) The following are the cannabis cultivator cultivation production management tiers:

1. Microbusiness Cultivator. A cannabis cultivator with a microbusiness license:

- i. May cultivate and possess no more than 1,000 mature cannabis plants each month; and
- ii. May cultivate an unlimited number of immature cannabis plants, germinated seeds, cuttings, or clones;
- iii. In a physical plant occupying an area that does not exceed 2,500 square feet; and
- iv. In a total ***mature cannabis plant*** grow canopy area that does not exceed 2,500 square feet, measured on a horizontal plane, and 24 feet, measured vertically above that plane.

2. Tier I Cultivator. A cannabis cultivator with a Tier I Cultivator license may cultivate in a mature cannabis plant grow canopy area that does not exceed 10,000 square feet.

3. Tier II Cultivator. A cannabis cultivator with a Tier II Cultivator license may cultivate in a mature cannabis plant grow canopy area that is greater than 10,000 square feet, but does not exceed 25,000 square feet.

4. Tier III Cultivator. A cannabis cultivator with a Tier III Cultivator license may cultivate in a mature cannabis plant grow canopy area that is greater than 25,000 square feet, but does not exceed 50,000 square feet.

5. Tier IV Cultivator. A cannabis cultivator with a Tier IV Cultivator license may cultivate in a mature cannabis plant grow canopy area that is greater than 50,000 square feet, but does not exceed 75,000 square feet.

6. Tier V Cultivator. A cannabis cultivator with a Tier V Cultivator license may cultivate in a mature cannabis plant grow canopy area that is greater than 75,000 square feet, but does not exceed 100,000 square feet.

7. Tier VI Cultivator. A cannabis cultivator with a Tier VI Cultivator license may cultivate in a mature cannabis plant grow canopy area that is greater than 100,000 square feet, but does not exceed 150,000 square feet.

8. Expanded ATC Cultivator. An expanded ATC cultivator with a cannabis cultivator license may cultivate medical cannabis and personal use cannabis in a combined mature cannabis plant grow canopy area that does not exceed 150,000 square feet.

(d) A cannabis cultivator applying for a conditional or annual standard cannabis business license may choose its tier in its application and shall include an explanation of the anticipated demand for its products that justify such tier choice.

17:30-10.5 Packaging, labeling, release for distribution

(a) A cannabis cultivator shall place a legible, permanently affixed label containing the information specified at N.J.A.C. 17:30-16.3 on each package of finished usable cannabis that is ready for sale.

(b) A cannabis cultivator shall only release for distribution and transfer to another cannabis business cannabis that has been properly processed, tested, packaged, sealed, and labeled in accordance with the provisions at N.J.A.C. 17:30-16.2 and 16.3.

17:30-10.6 Cannabis cultivator recordkeeping

(a) A cannabis cultivator shall maintain records identifying the source of each ingredient used in the cultivation of cannabis. Records identifying the source of each ingredient shall include:

1. The date of receipt of the ingredient;
2. The vendor-contractor's name and address;
3. The name of the ingredient and the vendor-contractor's control number or other identifying number or symbol, if any, used by the vendor-contractor to identify the ingredient; and
4. The grade and quantity of said ingredient.

(b) A cannabis cultivator shall keep and maintain for four years in an on-premises or off-site facility, in written or electronic form, a complete and accurate record of:

1. All sales of cannabis flowers, cannabis leaves, and immature cannabis plants;
2. The number of ounces of cannabis flowers produced;
3. The number of ounces of cannabis leaves produced;
4. The number of immature cannabis plants produced; and
5. The dates of all sales and production as enumerated at (b)1 through 4 above, including the name of the purchasing entity for each sale.

17:30-10.7 Cannabis cultivator storage of cannabis; quarantine

(a) A cannabis cultivator shall establish and implement a standard operating procedure for quarantine of any cannabis seed, cutting, clone, immature cannabis plant, batch of cannabis, or cultivation material or component whose suitability for use or distribution is in question, including the conditions described at (b) below, to prevent its use and distribution pending disposition by quality control personnel.

(b) A cannabis cultivator shall have at least the following storage areas, which must be segregated from each other:

1. Storage for newly received cultivation materials or components and newly received cannabis seeds, cuttings, clones, immature cannabis plants, or usable cannabis;
2. Batches of usable cannabis awaiting release for distribution for personal use, pending written reports confirming they meet specifications;
3. Any usable cannabis suspected, but not yet confirmed to be contaminated, including usable cannabis returned as part of a complaint or recall process;
4. Usable cannabis, components, or materials that have been confirmed to be contaminated, including, but not limited to, usable cannabis that fails testing or is returned as part of a recall, and shall be stored with cannabis waste in a waste disposal room until destroyed and rendered unrecoverable and unrecognizable, in accordance with N.J.A.C. 17:30-9.14.

17:30-10.8 Cannabis cultivator inventory

(a) A cannabis cultivator shall be authorized to acquire a reasonable initial and ongoing inventory of cannabis seeds, cuttings, clones, and immature cannabis plants and paraphernalia.

(b) A cannabis cultivator shall limit its inventory of cannabis seeds, cuttings, clones, immature cannabis plants, and usable cannabis to reflect the current market needs of consumers.

17:30-10.9 Cannabis cultivator quality control; pesticide use limited

A cannabis cultivator shall not apply any pesticide as defined pursuant to the provisions at N.J.A.C. 7:30, in the cultivation of cannabis, except that a pesticide that has been deemed to be minimum risk by the United States Environmental Protection Agency in accordance with 40 CFR 152.25(f) and exempted from the Federal Insecticide, Fungicide, and Rodenticide Act may be applied.

SUBCHAPTER 11. CANNABIS MANUFACTURER AUTHORIZED CONDUCT

17:30-11.1 Cannabis manufacturer premises

(a) All manufacturing of cannabis shall take place in an enclosed indoor, locked area or facility.

(b) Access to the enclosed indoor, locked area or facility shall be limited to Cannabis Business Identification Cardholders when acting on behalf of the cannabis manufacturer within the scope of their

responsibilities as an owner, principal, employee, volunteer, management services contractor, or staff member of the license holder.

(c) A cannabis manufacturer shall have an area specifically designated for the safe and orderly manufacturing of cannabis products.

(d) A cannabis manufacturer shall ensure that:

1. All manufacturing areas are well-lighted and ventilated and are maintained in a clean and sanitary condition;

2. Heating and air conditioning systems are controlled to avoid decomposition of chemicals;

3. Sewage, trash, and other refuse in and from the cannabis manufacturer and immediate product manufacturing area are maintained, and disposed of, in a timely, safe, and sanitary manner; and

4. The manufacturing area is easily accessible to hot and cold running water, exclusive of the bathroom sink; soap or detergent; and air dryers or single-source towels.

(e) A cannabis manufacturer operating as a microbusiness shall have a physical plant that does not exceed 2,500 square feet.

17:30-11.2 Cannabis manufacturer authorized conduct; prohibitions

(a) A cannabis manufacturer holding a Class 2 Cannabis Manufacturer license issued by the Commission shall be authorized to:

1. Purchase or otherwise obtain usable and unusable cannabis from a cannabis cultivator or cannabis manufacturer or usable cannabis from a cannabis wholesaler;

2. Purchase or otherwise obtain cannabis products from another cannabis manufacturer or a cannabis wholesaler;

3. Develop, produce, manufacture, prepare, or otherwise create and package cannabis products;

4. Possess, transfer, transport, distribute, supply, or sell usable and unusable cannabis and cannabis products to another cannabis manufacturer, or usable cannabis and cannabis products to a cannabis wholesaler or a cannabis retailer; and

5. Dispose of or destroy cannabis and cannabis products.

(b) A cannabis manufacturer holding a Class 2 Cannabis Manufacturer license issued by the Commission shall not be authorized to:

1. Cultivate cannabis; or

2. Transport, transfer, distribute, supply, or sell cannabis products, paraphernalia, or related supplies to consumers.

(c) A cannabis manufacturer shall only manufacture cannabis products in forms approved by the Commission, pursuant to N.J.A.C. 17:30-11.5.

(d) A microbusiness cannabis manufacturer shall acquire no more than 1,000 pounds of usable cannabis each month.

17:30-11.3 Cannabis manufacturer equipment

(a) A cannabis manufacturer shall possess equipment of appropriate design and capacity to the type of manufacturing performed, which shall be suitably located to facilitate operations for the intended use, cleaning, and maintenance of the equipment.

(b) Equipment surfaces that contact ingredients shall not be reactive, additive, or adsorptive, such that those surfaces could alter the safety, identity, strength, quality, and purity of the cannabis product.

(c) Equipment used in manufacturing cannabis products shall be thoroughly cleaned and sanitized after each use, and, when necessary, prior to use, in order to prevent cross-contamination of ingredients and preparations.

(d) Equipment used in manufacturing cannabis products shall be stored in a manner to prevent cross-contamination of ingredients and preparations.

(e) Automated, mechanical, or electronic equipment may be used in manufacturing cannabis products. All equipment utilized in manufacturing cannabis products shall be inspected, maintained, and validated at appropriate intervals, consistent with manufacturer's recommendations, to ensure the accuracy and reliability of equipment performance.

17:30-11.4 Quality control

(a) A cannabis manufacturer shall establish cannabis product specifications to ensure the identity, strength, quality, and purity of the cannabis product, and to ensure that the cannabis product has been manufactured, packaged, labeled, and stored under conditions to prevent contamination by impurities or foreign substances.

(b) A cannabis manufacturer shall establish procedures to ensure quality control over its manufacturing process.

(c) A cannabis manufacturer shall establish laboratory testing to ensure quality control over its manufacturing process, pursuant to N.J.A.C. 17:30-19.

17:30-11.5 Prohibited manufacturing; authorized forms; authorized amounts

(a) A cannabis manufacturer shall not manufacture cannabis products that contain drug products that appear on the Federal Food and Drug Administration's List of Drug Products Withdrawn or Removed from the Market for Reasons of Safety or Effectiveness, codified at 21 CFR 216.24.

(b) A cannabis manufacturer may manufacture oil for use in an electronic smoking device as vaporized formulation, in a pressurized metered dose inhaler, or in topical or oral formulations.

(c) A cannabis manufacturer is authorized to manufacture the following forms:

1. A cannabis concentrate, either in solid form, including "wax" and "shatter," or in liquid form as oil, either as cannabis extract or as resin extracted using non-chemical processes;

2. A cannabis-infused product, either in solid form or liquid form, containing either usable cannabis or cannabis concentrate along with an additional ingredient that includes, but is not limited to:

i. Vaporized formulation;

ii. Drops, tinctures, and other sublingual and sublingual forms;

iii. Oral lozenges and other buccal forms;

iv. Ingestible forms, which shall only include syrups, pills, tablets, capsules, oral suspensions, and chewable forms;

v. Topical formulations and transdermal forms; and

vi. Suppositories; and

3. Any other form authorized by the Commission, including a form authorized in accordance with the Commission's power to waive requirements pursuant to N.J.A.C. 17:30-*[3.13]**3.7*.

(d) A cannabis manufacturer shall manufacture cannabis products such that:

1. Each package of finished cannabis product shall, for inhalable products, contain no more than ¼ ounce or 7.09 grams of usable cannabis or equivalent weight dependent on form;

2. Each package of finished cannabis product shall, for ingestible products, contain no more than 100 mg of active THC;

3. Each single serving of a cannabis product shall contain no more than 10 mg of active THC, or the equivalent weight as best determined based on THC potency, dependent on form.

i. Each single serving of a cannabis product shall have a cannabinoid concentration that is within 90 to 110 percent of the specified milligram serving size claimed for that cannabis product.

ii. Each single serving shall be demarcated in accordance with N.J.S.A. 24:6I-35.a(8)(g);

4. No ingestible product shall be in the shape of, or a shape bearing the likeness or containing characteristics of, a realistic or fictional human, animal, or fruit, or part thereof, including artistic, caricature, or cartoon renderings*[*]**. **However, this provision does not prohibit cannabis products from including fruit or vegetable flavors, provided the manufacturer is compliant with the regulations for active and inactive ingredients pursuant to N.J.A.C. 17:30-11.6(d);***

5. A commercially manufactured or trademarked food product shall not be used as an ingestible product, provided that a commercially manufactured or trademarked food product may be used as a component of an ingestible product or part of a product's recipe, so long as the commercially manufactured or trademarked food product is used in a way that renders it unrecognizable in the final ingestible product and the product is not advertised as containing the commercially manufactured or trademarked food product; and

6. Each ingestible product shall have a universal symbol marked, stamped, or imprinted directly on it, in accordance with N.J.S.A. 24:6I-35.a(8)(h).

17:30-11.6 Ingredients in cannabis products

(a) A cannabis manufacturer must ensure all ingredients included in the products are compliant with the standards in this section and used only within the ingredient manufacturer's recommendations.

(b) All ingredients used to manufacture cannabis products shall be United States Pharmacopeia–National Formulary (USP–NF), analytical reagent (AR), certified American Chemical Society (ACS), or Food Chemicals Codex (FCC) grade substances. If a USP–NF, AR, ACS, or FCC grade substance ingredient is not available, the cannabis manufacturer shall establish the purity and safety of the ingredient by reasonable means, which may include lot analysis, manufacturer reputation, or reliability of source study.

(c) Components used in the manufacturing of cannabis products, such as aliquots, triturates, stock solutions, buffering agents, or isotonic solutions may be prepared in advance and stored as cannabis manufacturer stock. The preparation of such products shall be documented in accordance with the requirements outlined in this subchapter.

(d) Inactive and active ingredients for inhalable products shall be as follows:

1. Inactive ingredients for vaporized formulations shall be as follows:

i. Vaporized formulations may not include inactive ingredients that are additives, cutting agents, and artificial flavorings known to be harmful including, but not limited to:

- (1) Polyethylene glycol (PEG);
- (2) Propylene glycol (PG);
- (3) Vegetable glycerin, glycerine, or glycerol (VG);
- (4) Vitamin E acetate or tocopherol acetate (VEA);
- (5) Acetic acid; or

(6) Any other ingredient listed in the August 5, 2019, published Food and Drug Administration Established List of Harmful and Potentially Harmful Constituents in Tobacco Products and Tobacco Smoke, or the Food and Drug Administration Notice of Proposed Additions to the Established List of Harmful and Potentially Harmful Constituents in Tobacco Products and Tobacco Smoke, which is incorporated herein by reference, as amended and supplemented; and

ii. Any inactive ingredient used in a vaporized formulation must be listed as an allowable ingredient in products using the Respiratory (Inhalation) Route of Administration, as published by the Food and Drug Administration Inactive Ingredients Database, through June 30, 2021, which is incorporated herein by reference, as amended and supplemented; and must be used in an amount less than or equal to the “Potency Amount” allowed for the ingredient.

(1) Except that medium-chain triglyceride oil (MCT) may be used in a vaporized formulation in less than or equal to 13 percent of the vaporized formulation;

2. Inactive ingredients for oil intended for inhalation using a pressurized metered dose inhaler may include an inactive ingredient, including a pressurized propellant, that is listed as an allowable ingredient in products using the Respiratory (Inhalation) Route of Administration and the Aerosol, Metered Dosage Form in the Food and Drug Administration Inactive Ingredients Database, and that is used in an amount less than or equal to the “Potency Amount” allowed for the ingredient; and

3. Permitted active ingredients for cannabis products intended for inhalation and vaporized formulations shall be as follows:

i. Cannabis products intended for inhalation and vaporized formulations may include oil, cannabis-derived ingredients including terpenes, and botanically-derived terpenes.

(1) Except that the total amount of terpenes in a cannabis product intended for inhalation or vaporized formulation may not exceed 10 percent of the product.

(e) A cannabis manufacturer may seek a waiver to an inactive ingredient requirement at (d)1 above by providing evidence that demonstrates the safety of the ingredient in aerosol form for the inhalation route of administration within the maximum potency per unit dose, including, but not limited to:

1. Peer-reviewed studies, especially studies that demonstrate the safety of the ingredient after heating and in combination with cannabis concentrate; and

2. Approval for use as an allowable ingredient in products using the inhalation route of administration by an international body or government agency in another country equivalent to the Food and Drug Administration or another U.S. state department of health.

(f) Any inactive ingredient used in an ingestible cannabis product must be listed as an allowable ingredient in products using the Oral, Buccal, or Sublingual Routes of Administration, as applicable, in the Food and Drug Administration Inactive Ingredients Database and must be used in an amount less than or equal to the “**Maximum**” Potency *[Amount] * **per unit dose**” allowed for the ingredient.

(g) Any inactive ingredient used in a dermal cannabis product must be listed as an allowable ingredient in products using the Topical and Transdermal Routes of Administration, as applicable, in the Federal Food and Drug Administration Inactive Ingredients Database and must be used in an amount less than or equal to the “Potency Amount” allowed for the ingredient.

(h) Food and Drug Administration documents, incorporated by reference in this section, may be accessed as follows:

1. The most recently published Food and Drug Administration Established List of Harmful and Potentially Harmful Constituents in Tobacco Products and Tobacco Smoke is available at <https://www.fda.gov/tobacco-products/rules-regulations-and-guidance/harmful-and-potentially-harmful-constituents-tobacco-products-and-to-bacco-smoke-established-list>;

2. The Food and Drug Administration Notice of Proposed Additions to the Established List of Harmful and Potentially Harmful Constituents in Tobacco Products and Tobacco Smoke (August 5, 2019) is available at <https://www.federalregister.gov/documents/2019/08/05/2019-16658/harmful-and-potentially-harmful-constituents-in-tobacco-products-established-list-proposed-additions>; and

3. The most recently published Food and Drug Administration Inactive Ingredients Database is available at <https://www.fda.gov/drugs/drug-approvals-and-databases/inactive-ingredients-database-download>.

17:30-11.7 Cannabis electronic smoking devices

(a) A cannabis manufacturer that acquires an electronic smoking device for the purpose of distributing it to a cannabis retailer or cannabis wholesaler must ensure this device is made with ingredients and manufacturing processes compliant with the standards in this section and is reasonably safe for its intended use.

1. The cannabis manufacturer shall establish the reasonable safety of all electronic smoking devices through reasonable means, which may include manufacturer reputation, reliability of source study, and independent product testing results.

(b) An electronic smoking device, excluding the battery, shall not, in homogenous material, contain:

1. More than 100 parts per million (ppm) of cadmium; and
2. More than 1,000 ppm of lead, mercury, hexavalent chromium, polybrominated biphenyls, polybrominated diphenyl ether, bis(2-ethylhexyl) phthalate, butyl benzyl phthalate, dibutyl phthalate, or diisobutyl phthalate.

(c) An electronic smoking device battery shall not contain more than 0.0005 percent of mercury and 0.002 percent of cadmium by weight.

(d) The electronic smoking device shall be manufactured:

1. According to the current Good Manufacturing Practice (cGMP) requirements for medical devices, pursuant to 21 CFR Part 820;
2. In a manufacturing facility with ISO 13485 certification; and
3. Using, for any component or mouthpiece that comes in contact with the vaporized formulation, food contact materials listed as indirect food additives at 21 CFR 174-190.

(e) The electronic smoking device shall not exceed 500 degrees Fahrenheit and four volts during intended use and shall be equipped to automatically shut off if those conditions are exceeded.

(f) A cannabis manufacturer that acquires an electronic smoking device for the purpose of distributing it to another cannabis business shall maintain certificates of analysis, material data safety sheets, or other records demonstrating the full composition of each ingredient or component used in the manufacture of the electronic smoking device.

17:30-11.8 Expiration dates

(a) The expiration date is the date after which usable cannabis or a cannabis product shall not be sold. The expiration date shall be determined from the date the usable cannabis is cultivated or cannabis product is manufactured.

(b) After stability testing has commenced pursuant to N.J.A.C. 17:30-19.5, a cannabis cultivator or cannabis manufacturer shall determine the expiration date based on stability testing information. The expiration date limits established in this section may be exceeded only when there is supporting valid scientific stability testing information that is directly applicable to the specific cannabis product.

1. “Directly applicable to the specific cannabis product” shall mean that the stability tested product and the other product shall share characteristics, such as concentration range, pH, excipients, vehicle, or water content.

(c) In the absence of stability testing information pursuant to N.J.A.C. 17:30-19.5 that is applicable to a specific usable cannabis or cannabis product, the following are the maximum expiration dates for cannabis products that are packaged in airtight, light-resistant containers and stored at controlled room temperature, unless otherwise indicated at (c)1 below:

1. For water-containing formulations (prepared from ingredients in solid form), the expiration date shall not be later than 14 days for liquid preparations when stored at cold temperatures between two degrees and eight degrees Celsius (36 degrees and 46 degrees Fahrenheit); and

2. For all other formulations and for usable cannabis, the expiration date shall not be later than six months from the manufacture or cultivation date.

17:30-11.9 Packaging; labeling; release for distribution

(a) A cannabis manufacturer shall place a legible, permanently affixed label containing the information specified at N.J.A.C. 17:30-16.3 on each package of finished cannabis product.

(b) A cannabis manufacturer shall only release for distribution and transfer cannabis products to another cannabis business, cannabis products that have been properly processed, tested, packaged, sealed, and labeled in accordance with the provisions at N.J.A.C. 17:30-16.2 and 16.3.

17:30-11.10 Cannabis manufacturer storage of cannabis; cannabis products; quarantine

(a) A cannabis manufacturer shall have at least the following storage areas, segregated from each other:

1. Storage for newly received manufacturing materials, including newly received usable or unusable cannabis, ingredients to be used in manufacturing, and any cannabis-infused products or cannabis concentrates received from other cannabis manufacturers;

2. Lots of cannabis products awaiting release for distribution for personal use pending written reports confirming they meet specifications;

3. Any usable cannabis or cannabis products suspected, but not yet confirmed to be contaminated, including cannabis products returned as part of a complaint or recall process; and

4. Cannabis products, components, or materials that have been confirmed to be contaminated, such as usable cannabis or cannabis products that fail testing or are returned as part of a recall, shall be stored with cannabis waste in a waste disposal room until destroyed or rendered unrecoverable and unrecognizable, as applicable, pursuant to N.J.A.C. 17:30-9.14.

(b) A cannabis manufacturer shall establish and implement a standard operating procedure for quarantine of any batch of usable cannabis, lot of cannabis concentrates or cannabis-infused products, or component whose suitability for use or distribution is in question, including the conditions described at (a)3 and 4 above, to prevent its use and distribution, pending disposition by quality control personnel.

17:30-11.11 Health and safety standards

(a) A cannabis manufacturer shall:

1. Enter into an on-site consultation agreement with the New Jersey Department of Labor and Workforce Development, Division of Public Safety and Occupational Safety and Health, Occupational Safety and Health On-Site Consultation Program (Consultation Program) established pursuant to 29 CFR Part 1908 and in accordance with the Consultation Program’s procedures identified on its website at http://lwd.dol.state.nj.us/labor/lsse/employer/Occupational_Safety_and_Health_Onsite_Consultation_Program.html;

2. Cooperate fully with the Consultation Program in the consultation process;

3. Permit the Consultation Program full access to evaluate the cannabis manufacturer premises and operations and to interview cannabis manufacturer staff on an ongoing basis;

4. Correct, to the satisfaction of the Consultation Program, health and safety hazards that the Consultation Program may find and identify in its written report; and

5. Maintain ongoing cooperation with the Consultation Program and continue to correct, to the satisfaction of the Consultation Program, health and safety hazards that the Consultation Program may find and identify in subsequent written reports.

(b) The Commission shall not authorize a cannabis manufacturer to commence operations, or recommence operations, unless and until the cannabis manufacturer:

1. Corrects, to the satisfaction of the Consultation Program, imminent dangers and serious hazards that the Consultation Program identifies; and

2. Demonstrates ongoing progress and cooperation, to the satisfaction of the Consultation Program, in the correction of other-than-serious hazards in accordance with a schedule and action plan of correction accepted by the Consultation Program.

(c) A violation of (b) above shall result in enforcement actions pursuant to N.J.A.C. 17:30-20, which may include civil monetary penalties or summary suspension.

17:30-11.12 Manufacturing personnel: manufacturing supervisor

(a) A cannabis manufacturer shall designate a manufacturing supervisor who will be responsible for ensuring compliance with this subchapter, including ensuring that:

1. Cannabis products have been properly prepared, labeled, controlled, stored, sold, and distributed in accordance with the provisions of this standard;

2. All aspects of the manufacturing process are documented and that accurate manufacturing records for all cannabis products prepared by the cannabis manufacturer are maintained;

3. Manufacturing personnel are capable of, and qualified to perform, their assigned duties;

4. Ingredients used in manufacturing have their expected identity, strength, quality, and purity consistent with the requirements in this standard;

5. Cannabis products are manufactured with acceptable strength, quality, and purity, are packaged with appropriate packaging and labeling, and are prepared in accordance with good manufacturing practices;

6. Critical processes are recorded and validated to ensure that procedures will consistently result in the expected strength, quality, and purity in the finished cannabis products;

7. The manufacturing environment is suitable for its intended purpose;

8. Appropriate stability testing pursuant to N.J.A.C. 17:30-19.5 is performed, or is determined from literature, for establishing reliable expiration dating to ensure that the finished cannabis products have their expected strength, quality, and purity, at least until the labeled expiration date;

9. Manufacturing conditions and standard operating procedures are in place to minimize the potential for errors; and

10. Adequate procedures and records exist for investigating and correcting failures or problems in manufacturing, quality control, or in the cannabis product itself.

(b) Personnel employed by the cannabis manufacturer shall have appropriate education and/or experience to assume responsibility for positions that would affect compliance with this subchapter.

(c) The manufacturing supervisor shall report any confirmed failure of a cannabis product to meet the standard of acceptable strength, quality, purity, packaging, and labeling to the Commission within 24 hours of incident confirmation.

17:30-11.13 Cannabis manufacturer recordkeeping; audit trail; manufacturing record

(a) A cannabis manufacturer shall maintain records identifying the source of each ingredient used in the manufacturing of cannabis. Records identifying the source of each ingredient shall include:

1. The date of receipt of the ingredient;
2. The vendor-contractor’s name and address;

3. The name of the ingredient and the vendor-contractor's control number or other identifying number or symbol, if any, used by the vendor-contractor to identify the ingredient; and

4. The grade and quantity of said ingredient.

(b) A cannabis manufacturer shall maintain a manufacturing record for each cannabis product; the record shall contain the following information:

1. Selection of all ingredients and documentation of source, lot/batch numbers, and expiration dates of all ingredients used;

2. Verification that the ingredients comply with the master formulation record;

3. Verification that the cannabis product label complies with the requirements set forth at N.J.A.C. 17:30-11.9;

4. Verification that the cannabis product is complete and ready for sale;

5. Name and strength of the cannabis product;

6. Date of preparation;

7. Name of the person(s) who performed each step of the manufacturing process and the manufacturing supervisor who verified the preparation of the cannabis product;

8. Reference(s) for formulation, if available;

9. Total quantity of cannabis product, including number of servings, manufactured in each lot;

10. Detailed steps of the manufacturing process to ensure that the exact same cannabis product can be duplicated at a future date;

11. Type of container used when the cannabis product has specific storage requirements;

12. Expiration date of the cannabis products consistent with the requirements set forth in this subchapter;

13. Results of quality control procedures; and

14. Instructions for use, storage, and handling of the cannabis product.

(c) The cannabis manufacturer shall follow all recordkeeping requirements as set forth at N.J.A.C. 17:30-9.7.

SUBCHAPTER 12. CANNABIS WHOLESALER AUTHORIZED CONDUCT

17:30-12.1 Cannabis wholesaler premises

(a) The cannabis wholesaler shall warehouse and store finished usable cannabis and cannabis products only at the cannabis business premises authorized in the license in an enclosed indoor, locked area or facility.

(b) Access to the enclosed indoor, locked area or facility shall be limited to Cannabis Business Identification Cardholders when acting on behalf of the cannabis wholesaler within the scope of their responsibilities as owner, principal, employee, volunteer, management services contractor, or staff member of the license holder.

(c) A cannabis wholesaler shall ensure that:

1. All cannabis item storage areas are well-lit and ventilated and are maintained in clean and sanitary condition; and

2. Heating and air conditioning systems are controlled to ensure products are stored in the appropriate temperature range for each type of product.

(d) A cannabis wholesaler operating as a microbusiness shall have a physical plant that does not exceed 2,500 square feet.

17:30-12.2 Cannabis wholesaler authorized conduct

(a) A cannabis wholesaler holding a Class 3 Cannabis Wholesaler license issued by the Commission shall be authorized to:

1. Purchase, or otherwise obtain, cannabis items from another cannabis wholesaler, a cannabis cultivator, or a cannabis manufacturer for the purpose of resale to another cannabis wholesaler, a cannabis manufacturer, or a cannabis retailer;

2. Possess, store, warehouse, transport, and dispose of or destroy cannabis items; or

3. Sell or otherwise transfer cannabis items to another cannabis wholesaler, a cannabis manufacturer, or a cannabis retailer.

(b) A cannabis wholesaler holding a Class 3 Cannabis Wholesaler license issued by the Commission shall not be authorized to:

1. Cultivate or package cannabis;

2. Produce, manufacture or otherwise create, or package cannabis products; or

3. Transport, transfer, distribute, supply, or sell cannabis, cannabis items, paraphernalia, or related supplies to consumers.

(c) A cannabis wholesaler shall only sell usable cannabis and cannabis products that are packaged and labeled in accordance with N.J.A.C. 17:30-16.2 and 16.3.

1. The cannabis wholesaler shall perform a visual examination of the packaged usable cannabis and cannabis products to ensure the finished product has compliant packaging and labeling and has not been adulterated or contaminated.

(d) A microbusiness cannabis wholesaler shall acquire for resale no more than 1,000 pounds of usable cannabis, or the equivalent amount, in any form of cannabis product, or any combination thereof, each month.

17:30-12.3 Cannabis wholesaler recordkeeping

(a) A cannabis wholesaler shall keep a complete and accurate record of all cannabis item purchases and sales by the wholesaler, including the date of sale or purchase and the purchasing or selling entity.

1. Such records shall be kept and maintained for four years, either on-premises or at an off-site facility, in written or electronic form.

(b) A cannabis wholesaler license holder shall collect and report to the Commission for each calendar year at least the following statistical data:

1. The number of ounces of usable cannabis purchased and sold;

2. The number of ounces of cannabis products purchased and sold;

3. The total number of cannabis item sales transactions; and

4. Such other information as the Commission may require in the administration and enforcement of this chapter.

SUBCHAPTER 13. CANNABIS DISTRIBUTOR AUTHORIZED CONDUCT

17:30-13.1 Cannabis distributor premises

(a) If a cannabis distributor stores unusable cannabis and cannabis items, it shall store them only at the cannabis business premises authorized in the license in an enclosed indoor, locked area or facility.

(b) Access to the enclosed indoor, locked area or facility shall be limited to Cannabis Business Identification Cardholders when acting on behalf of the cannabis distributor within the scope of their responsibilities as an owner, principal, employee, volunteer, management services contractor, or staff member of the license holder.

(c) If a cannabis distributor stores unusable cannabis and cannabis items, a cannabis distributor shall ensure that:

1. All cannabis and cannabis item storage areas are well-lit and ventilated and are maintained in clean and sanitary condition; and

2. Heating and air conditioning systems are controlled to ensure products are stored in the appropriate temperature range for each type of product.

(d) If a cannabis distributor does not store unusable cannabis and cannabis items, it is required to maintain an administrative office at the location authorized in the license where it conducts operations to transport cannabis and cannabis items in bulk and is not required to maintain a cannabis business premises.

1. When a cannabis distributor does not store unusable cannabis and cannabis items, it shall possess unusable cannabis and cannabis items only at the originating and receiving cannabis businesses and in the delivery vehicle, and not at the administrative office.

17:30-13.2 Cannabis distributor authorized conduct

(a) A cannabis distributor holding a Class 4 Cannabis Distributor license issued by the Commission shall be authorized to:

1. Transport intrastate unusable cannabis between cannabis cultivators and cannabis manufacturers;

2. Transport intrastate cannabis items between cannabis establishments;

3. Possess and engage in temporary storage of cannabis or cannabis items, as necessary to carry out transportation activities; and

4. Dispose of or destroy cannabis items.

(b) A cannabis distributor holding a Class 4 Cannabis Distributor license issued by the Commission shall not be authorized to:

1. Cultivate or package cannabis;

2. Produce, manufacture or otherwise create, or package cannabis products;

3. Transport, transfer, distribute, supply, or sell cannabis, cannabis items, paraphernalia, or related supplies to consumers;

4. Purchase or resell cannabis or cannabis items; or
5. Transport or possess cannabis or cannabis items outside the State of New Jersey.

(c) A cannabis distributor shall only transport usable cannabis and cannabis products that are packaged and labeled in accordance with N.J.A.C. 17:30-16.2 and 16.3.

(d) There shall be no limit on the amount of cannabis plants or cannabis items that a microbusiness cannabis distributor may possess for the purposes of transportation each month.

17:30-13.3 Cannabis distributor recordkeeping

(a) A cannabis distributor shall keep a complete and accurate record of all cannabis and cannabis items secure transport trips by the distributor, including the date of the secure transport trip, the cannabis or cannabis items transported, the sending and receiving cannabis businesses, and any information required pursuant to N.J.A.C. 17:30-9.15(j).

1. Such records shall be kept and maintained for four years, either at the cannabis business premises or administrative office or at an off-site facility, in written or electronic form.

(b) A cannabis distributor license holder shall collect and report to the Commission for each calendar year at least the following statistical data:

1. The number of ounces of usable cannabis transported;
2. The number of ounces of cannabis products transported;
3. The total number of cannabis item transport trips; and
4. Such other information as the Commission may require in the administration and enforcement of this chapter.

17:30-13.4 Cannabis distributor storage of cannabis items

(a) If a cannabis distributor stores cannabis items, all cannabis items shall be stored in an enclosed indoor, locked area pursuant to N.J.A.C. 17:30-9.12, where access to such area is limited to an owner, principal, employee, or volunteer of a license holder or staff members of a license holder's management services contractor that possesses a Cannabis Business Identification Card when acting in their official capacity.

(b) If a cannabis distributor does not store cannabis items, all cannabis items shall be possessed by the cannabis distributor only at the sending and receiving cannabis businesses and in the delivery vehicle, and not stored at the administrative office.

17:30-13.5 Cannabis distributor inventory

The inventory of a cannabis distributor, during secure transport and in storage, shall be dependent on the sending and receiving cannabis businesses. A cannabis distributor shall not acquire cannabis items outside of a secure transport trip.

SUBCHAPTER 14. CANNABIS RETAILER AUTHORIZED CONDUCT

17:30-14.1 Cannabis retailer premises

(a) A cannabis retailer premises shall not be located in, or upon, any premises in which operates:

1. A grocery store, delicatessen, indoor food market, or other store engaging in retail sales of food; or
2. A store that engages in licensed retail sales of alcoholic beverages, as defined at N.J.S.A. 33:1-1.b.

(b) A cannabis retailer shall sell cannabis only at the cannabis business premises authorized in the license, including any indoor or outdoor areas, including as provided at N.J.A.C. 17:30-14.4. A purchase made through the Internet website of a cannabis retailer shall be considered to have been conducted at the cannabis retailer's premises.

(c) A cannabis retailer operating as a microbusiness shall have a physical plant that does not exceed 2,500 square feet.

17:30-14.2 Cannabis retailer authorized conduct; prohibitions

(a) A cannabis retailer shall be authorized to:

1. Purchase or acquire usable cannabis from cannabis cultivators, cannabis manufacturers, cannabis wholesalers, or cannabis retailers;
2. Purchase or otherwise obtain cannabis products and related supplies from cannabis manufacturers, cannabis wholesalers, or cannabis retailers;
3. Purchase or acquire paraphernalia and related supplies;
4. Possess, display, transport, transfer, distribute, supply, sell, and furnish usable cannabis, cannabis products, paraphernalia, and related

supplies to a consumer, to other cannabis retailers, or to delivery services, based on purchase orders from consumers.

i. A cannabis retailer may furnish usable cannabis, cannabis products, paraphernalia, and related supplies to cannabis retailer delivery or cannabis delivery service personnel for delivery to a consumer consistent with the requirements at N.J.A.C. 17:30-14.8; and

5. Dispose of or destroy cannabis items.

(b) A cannabis retailer shall not be authorized to:

1. Cultivate cannabis; or
2. Produce, manufacture, or otherwise create cannabis products.

(c) A cannabis retailer may sell usable cannabis and cannabis products to consumers in any authorized form, in accordance with N.J.A.C. 17:30-11.2(c).

1. A cannabis retailer shall only sell usable cannabis and cannabis products that are packaged and labeled in accordance with N.J.A.C. 17:30-16.2 and 16.3.

(d) A cannabis retailer shall not allow persons under the age of 21 to purchase cannabis items or to enter or remain on the premises of a cannabis retailer unless accompanied by a parent or legal guardian and shall ensure similar restrictions are enacted on any Internet website operated by the cannabis business.

(e) A cannabis retailer shall only sell cannabis items directly to a consumer.

(f) Each cannabis retailer shall maintain and make available on its Internet website, if any, a standard price list that shall apply to all usable cannabis, cannabis products, paraphernalia, and related supplies sold by the cannabis retailer.

(g) Each cannabis retailer shall consider whether to make interpreter services available to the population served, including for individuals with a visual or hearing impairment.

1. The cannabis retailer shall assume the cost of providing such interpreter services.

2. The Commission shall provide assistance to any cannabis retailer that seeks to provide such services in locating appropriate interpreter resources.

(h) A microbusiness cannabis retailer shall acquire no more than 1,000 pounds of usable cannabis, or the equivalent amount, in any form of cannabis product, or any combination thereof, for retail sale to consumers each month.

17:30-14.3 Cannabis retailer sale to a consumer

(a) Before allowing entrance to a cannabis retailer, and additionally prior to selling or serving cannabis items to a consumer, for each transaction, cannabis retailer personnel shall examine any one of the following pieces of photographic identification and shall confirm the consumer is of legal age to purchase cannabis:

1. The person's United States passport; other country's passport; or proper government-issued documentation for international travel, provided it is lawful to use as identification in the United States;
2. The person's motor vehicle driver's license, whether issued by New Jersey or by any other state, territory, or possession of the United States, or the District of Columbia, provided the license displays a picture of the person;
3. A New Jersey identification card issued by the New Jersey Motor Vehicle Commission; or
4. Any other identification card issued by a state, territory, or possession of the United States, the District of Columbia, or the United States that bears a picture of the person, the name of the person, the person's date of birth, and a physical description of the person.

(b) In order to ensure that individual privacy is protected:

1. A consumer is not required to provide a cannabis retailer with personal information other than government-issued identification as set forth at (a) above in order to determine the consumer's identity and age;

2. A cannabis retailer shall not collect and retain any personal information about a consumer other than information typically acquired in a financial transaction conducted by the holder of a Class C retail license concerning alcoholic beverages as set forth at N.J.S.A. 33:1-12; and

3. The cannabis retailer shall not keep a copy of the consumer's photographic identification.

(c) Cannabis retailer personnel shall log that the examination of photographic identification and confirmation of legal age pursuant to (a) above occurred in a record, and the cannabis retailer shall maintain such record and it shall be available for inspection by the Commission.

(d) The cannabis retailer shall not sell to a consumer in a single sales transaction:

1. More than 28.35 grams (one ounce) of usable cannabis;
2. More than ***[five]* *four*** grams of solid cannabis concentrate or ***[five]* *four*** mL of liquid cannabis concentrate (oil);
3. Vaporized formulation containing more than ***[five]* *four*** mL of liquid cannabis concentrate (oil);
4. Multiple ingestible cannabis-infused products containing an aggregate total of more than 1,000 mg of THC; or
5. More than 28.35 grams (one ounce), or the equivalent, of some combination of usable cannabis and cannabis products.

(e) The cannabis retailer shall make a good faith effort to prevent a consumer from exceeding one ounce of usable cannabis or the equivalent weight in cannabis products, in multiple sales transactions.

(f) The cannabis retailer shall only sell to consumers cannabis items that have been properly tested, packaged, sealed, and labeled in accordance with the provisions at N.J.A.C. 17:30-16.2 and 16.3.

(g) A cannabis retailer shall provide the consumer with a receipt that includes, at a minimum:

1. Its name, address, license number, and telephone number;
2. The date of retail sale; and
3. The cannabis items purchased and their purchase price.

(h) A cannabis retailer selling an electronic smoking device to the consumer shall provide a supplemental information document that:

1. Lists all ingredients or materials used to manufacture the electronic smoking device;
2. Provides instructions to consumers on how to use the electronic smoking device safely as part of intended usage based on manufacturer's recommendations, which shall include, but not be limited to, a recommended number of seconds per dose; and
3. States, "Electronic smoking devices and vaporized formulations of cannabis are not approved by the Food and Drug Administration and have not been proven to be safe for use in humans. Consumers should consider alternative methods for the administration of cannabis."

(i) A cannabis retailer shall ***offer to*** provide ***clearly visible*** information on the safe use of cannabis items to consumers ***[prior to each purchase]* *at the point of sale***, such as ***a printed copy of*** the information on Safe and Responsible Consumption provided on the Commission website, www.nj.gov/cannabis.

(j) A cannabis retailer shall offer to provide a copy of the written report from the testing laboratory pursuant to N.J.A.C. 17:30-19.6 as a supplemental informational document to the adult consumer.

(k) The cannabis retailer shall collect any tax from a consumer required by the Act and this chapter.

17:30-14.4 Curbside retail sales

(a) A cannabis retailer may conduct curbside retail sales in accordance with this section upon approval of the Commission.

(b) Prior to initiating curbside retail sales, the cannabis business shall provide the Commission with, and shall seek approval from the Commission on, standard operating procedures regarding:

1. Taking cannabis item orders, verifying photographic identification, and receiving payment;
2. Logging transactions in the Commission-designated inventory management system, and, as applicable, the internal inventory management system; and
3. Security needed to accommodate curbside retail sales.

(c) When a cannabis retailer conducts curbside retail sales:

1. A consumer shall place an order with the cannabis retailer in advance;
2. Usable cannabis and cannabis products shall be labeled in the cannabis retailer's premises prior to retail sale on the exterior of the facility;
3. The cannabis retailer shall provide a consumer with an approximate pick-up time to reduce traffic around the premises;

4. Prior to making a retail sale, cannabis retailer personnel shall conduct an in-person visual verification of the consumer's photographic identification;

5. All transactions shall be appropriately logged in the Commission-designated inventory management system, and as applicable, the internal inventory management system in accordance with N.J.A.C. 17:30-9.7 and 9.13; and

6. All transactions shall be conducted in a secure and monitored manner in accordance with N.J.A.C. 17:30-9.10.

(d) The cannabis retailer shall notify the municipality in which it is located and local law enforcement that it intends to conduct curbside retail sales.

17:30-14.5 Cannabis retailer recordkeeping; reporting

(a) A cannabis retailer shall keep a complete and accurate record of all cannabis item purchases and sales, including deliveries, made to consumers or other cannabis businesses by the retailer or a cannabis delivery service acting on its behalf, including the date of purchase and delivery sale, the cannabis items purchased or sold, and the purchasing or selling entity, and any information required at N.J.A.C. 17:30-14.8(l).

1. Such records shall be kept and maintained for four years, either on-premises or at an off-site facility, in written or electronic form.

(b) A cannabis retailer license holder shall collect and report to the Commission for each calendar year at least the following statistical data:

1. The number of consumers who purchased each cannabis item sold by the cannabis retailer;
2. Total number of cannabis item transactions;
3. Taxes collected; and
4. Such other information as the Commission may require in the administration and enforcement of this chapter.

17:30-14.6 Cannabis retailer consumer education

(a) A cannabis retailer shall, prior to the opening date of the cannabis business, establish and implement policies describing its plans for providing information and communicating to consumers as to:

1. Limitations of the right to possess and use cannabis items pursuant to the Act and this chapter;
2. Potential side effects of cannabis use;
3. The differing strengths of cannabis items sold;
4. Safe techniques for use of cannabis items and paraphernalia, noting the potential variations in feeling the effects of cannabis;
5. Alternative methods and forms of consumption or inhalation by which one can use cannabis items;
6. Signs and symptoms of substance abuse;
7. Opportunities to participate in substance abuse programs; and
8. Information on tolerance, dependence, and withdrawal.

(b) A cannabis retailer shall maintain, and make available for distribution to consumers, an adequate supply of up-to-date informational materials addressing the matters identified in the policies developed pursuant to (a) above.

1. Informational materials must be available for inspection by the Commission upon request.

17:30-14.7 Cannabis retailer storage

All cannabis items shall be stored in an enclosed indoor, locked area pursuant to N.J.A.C. 17:30-9.12 where access to such area is limited to an owner, principal, employee, or volunteer of a license holder or staff members of a license holder's management services contractor that possesses a Cannabis Business Identification Card when acting in their official capacity.

17:30-14.8 Home delivery

(a) A license holder holding a Class 6 Cannabis Delivery license may be authorized by a cannabis retailer to deliver cannabis items to consumers on behalf of that cannabis retailer, based on purchase orders.

(b) As approved by the Commission and pursuant to N.J.S.A. 24:6I-44.j, on behalf of a cannabis retailer, cannabis retailer delivery personnel or a cannabis delivery service personnel may deliver cannabis to a consumer at a residence.

1. Cannabis retailers or cannabis delivery services may engage in delivery in any region and may institute geographic and hourly restrictions on where and when they opt to deliver to consumers.

2. Any such restrictions shall be reported to the Commission and listed on the cannabis retailer's or cannabis delivery service's Internet website.

3. Cannabis retailers or cannabis delivery services may change those restrictions; provided, however, that the cannabis retailer or cannabis delivery service gives advance notice of seven days to the Commission, the cannabis retailer gives advance notice of seven calendar days to the municipality in which the cannabis retailer is located, and the cannabis retailer or cannabis delivery service posts the changed restrictions online and at their cannabis business premises or administrative office.

4. If servicing different geographic areas on different days or at different times, cannabis retailers or cannabis delivery services shall implement a regular schedule to the extent practicable.

(c) Orders shall be placed in advance by a consumer, either directly with a cannabis retailer, or with a cannabis delivery service that provides the purchase order to a cannabis retailer, and cannabis items in the purchase order shall be assembled for delivery at the cannabis retailer premises, and then provided to the cannabis retailer delivery or cannabis delivery service personnel.

1. When a consumer places an order for delivery for the first time with a cannabis retailer or cannabis delivery service, the cannabis retailer or cannabis delivery service may validate the consumer's age by phone or through online means, provided, however that an in-person verification is conducted by cannabis retailer delivery or cannabis delivery service personnel prior to sale and furnishing the ordered items.

(d) In transit, cannabis items shall be locked and stored in a sanitary and secure lockbox in the delivery vehicle until cannabis retailer delivery or cannabis delivery service personnel arrive at the delivery address.

(e) When outside of the vehicle to conduct a delivery, or when leaving the vehicle for any other reason, cannabis retailer delivery or cannabis delivery service personnel shall lock the delivery vehicle and the secure lockbox and engage the vehicle alarm system.

(f) Deliveries may be conducted by a single person; provided, however, that another person that is cannabis retailer or cannabis delivery service personnel, preferably a supervisor, has access to real-time GPS tracking of the delivery vehicle.

(g) A cannabis delivery service and cannabis retailer shall only deliver:

1. To a residence, including a temporary residence, in this State;
2. To a legal consumer whose age has been verified by an examination of the consumer's photographic identification; and
3. A cannabis item in-person and shall not use an unmanned vehicle.

(h) A cannabis retailer or cannabis delivery service shall not leave cannabis items unattended, such as on a porch or stoop, and shall not deliver in mailboxes or to post office boxes or to any residence located on land owned by the Federal government or any residence on land or in a building leased by the Federal government.

(i) At the door of the consumer, cannabis retailer delivery or cannabis delivery service personnel shall conduct an in-person visual verification of the photographic identification of the consumer prior to furnishing purchased cannabis items.

(j) Cannabis retailer delivery or cannabis delivery service personnel may make multiple deliveries in one trip and shall travel only between the cannabis retailer premises and residential delivery addresses, except in the event of emergency or dangerous road conditions or as necessary for sanitization, rest, fuel, or vehicle repair stops.

1. A cannabis retailer or cannabis delivery service shall ensure that deliveries are completed in a timely and efficient manner.

2. During delivery, the cannabis retailer delivery or cannabis delivery service personnel driving the delivery vehicle shall comply with this section and all New Jersey laws, rules, and regulations for operation of vehicles on public roadways.

(k) All transactions, including the information at (l) below, shall be appropriately logged in the Commission-designated inventory management system and, as applicable, the cannabis retailer's and cannabis delivery service's internal inventory in accordance with N.J.A.C. 17:30-9.7 and 9.13 and other corresponding rules.

(l) A cannabis retailer and cannabis delivery service shall maintain delivery records, which includes the following information for every delivery conducted by the cannabis retailer or on its behalf:

1. Date and time that the delivery began and ended;
2. Name, address, and signature of the consumer delivery recipient;

3. Name and Cannabis Business Identification Card number of cannabis retailer delivery or cannabis delivery service personnel;

4. The name, amount, batch or lot number(s), and tracking number(s) of the cannabis item(s) delivered; and

5. Confirmation of photographic identification verification.

(m) Where a delivery is attempted and not completed and the cannabis item remains in the possession of the cannabis retailer delivery or cannabis delivery service personnel, the delivery personnel shall return the cannabis item to the originating retailer. The cannabis retailer may restock the product, logging the product's amended status in the internal inventory. Such items must be in new, unopened condition prior to restocking and may be delivered to a consumer pursuant to a subsequent purchase order.

(n) To the extent practicable, the cannabis retailer and cannabis delivery service shall implement protective measures for delivery to reduce the spread of COVID-19 and other communicable diseases as recommended by the New Jersey Department of Health, the United States Centers for Disease Control and Prevention, the Occupational Safety and Health Administration, or health care professionals. These include, but are not limited to, providing cannabis business delivery personnel with hand sanitizer and personal protective equipment, including face masks.

(o) While conducting a delivery, a person that is cannabis retailer delivery or cannabis delivery service personnel shall carry:

1. Their Cannabis Business Identification Card;
2. A valid non-probationary driver's license appropriate to the type of delivery vehicle driven;
3. A cellular telephone to communicate securely with the cannabis retailer or cannabis delivery service; and

4. A physical or electronic copy of the consumer's delivery request or purchase order, which shall be made available, upon request, to State and local law enforcement, the Commission, and local regulatory agencies.

(p) A delivery vehicle shall bear no markings that would either identify or indicate that the vehicle is used to deliver cannabis items.

(q) Delivery vehicles shall be equipped with or contain an operational GPS device at all times.

(r) A cannabis retailer and cannabis delivery service shall maintain current hired and non-owned automobile liability insurance sufficient to insure each delivery vehicle in the amount of at least \$1,000,000 per occurrence or accident.

(s) A cannabis retailer and cannabis delivery service shall provide the Commission with current information on all delivery vehicles, including each vehicle's make, model, color, vehicle identification number, license plate number, and vehicle registration.

(t) A cannabis retailer and cannabis delivery service shall provide the Commission with a list of all personnel that will be used as cannabis retailer delivery or cannabis delivery service personnel, documentation that they have received training for the position, and verification that they have valid non-probationary driver's licenses appropriate to the type of delivery vehicle driven.

(u) A cannabis retailer and cannabis delivery service shall report any vehicle accidents, diversions, losses, or other reportable events that occur during delivery to the appropriate State and local authorities, including the Commission.

(v) A cannabis retailer or cannabis delivery service may charge a delivery fee *[,which shall not exceed 10 percent of the pre-tax total for an order]*.

(w) A cannabis retailer may sell finished cannabis items to another cannabis retailer to conduct deliveries on its behalf.

(x) Prior to initiating delivery services, a cannabis retailer and cannabis delivery service shall provide the Commission with a delivery operations plan for approval. The delivery operations plan shall include standard operating procedures for:

1. Taking orders, verifying photographic identification; and taking payments;
2. Logging the transactions in the Commission-designated inventory management system and, as applicable, internal inventory;
3. Conducting in-person deliveries, which shall include protocols for use of personal protective equipment and regular sanitization, if necessary;

4. Maintaining privacy and confidentiality of the purchasing consumer's purchase information;

5. Training cannabis retailer delivery or cannabis delivery service personnel;

6. Tracking delivery vehicles and inventory;

7. Security for cannabis retailer delivery or cannabis delivery service personnel, delivery vehicles, and inventory; and

8. Emergency notification and response in the event of accidents, theft, equipment malfunction, or other emergency events.

SUBCHAPTER 15. CANNABIS DELIVERY SERVICE AUTHORIZED CONDUCT

17:30-15.1 Cannabis delivery service authorized conduct

(a) A cannabis delivery service holding a Class 6 Cannabis Delivery Service license issued by the Commission shall be authorized to:

1. After receiving a purchase order from a consumer or a cannabis retailer, obtain cannabis items, cannabis paraphernalia, and related supplies from such cannabis retailer;

2. Possess, store, and transport cannabis items, cannabis paraphernalia, and related supplies;

3. Deliver cannabis items, cannabis paraphernalia, and related supplies to a consumer consistent with the requirements at N.J.A.C. 17:30-14.8;

4. Transport undelivered cannabis items, cannabis paraphernalia, and related supplies back to its originating cannabis retailer; and

5. Dispose of or destroy cannabis items.

(b) A cannabis delivery service holding a Class 6 Cannabis Delivery Service license issued by the Commission shall not be authorized to:

1. Cultivate or package cannabis;

2. Produce, manufacture or otherwise create, or package cannabis products; or

3. Transport, transfer, distribute, supply, or sell cannabis, cannabis items, paraphernalia, or related supplies to cannabis businesses.

(c) A cannabis delivery service shall not allow persons under the age of 21 to purchase cannabis items.

(d) A cannabis delivery service shall only deliver cannabis items directly to a consumer.

(e) A cannabis delivery service may, as authorized by its selling cannabis retailer, maintain and make available on its Internet website, if any, a standard price list that shall apply to all usable cannabis, cannabis products, paraphernalia, and related supplies sold by the cannabis retailer.

(f) Each cannabis delivery service shall consider whether to make interpreter services available to the population served, including for individuals with a visual or hearing impairment.

1. The cannabis delivery service shall assume the cost of providing such interpreter services.

2. The Commission shall provide assistance to any cannabis delivery service that seeks to provide such services in locating appropriate interpreter resources.

(g) There shall be no limit on the amount of cannabis items that a microbusiness cannabis delivery service may deliver, as fulfilled purchase orders, on behalf of a cannabis retailer.

17:30-15.2 Cannabis delivery to a consumer

(a) Before delivering a cannabis item to a consumer in a transaction, cannabis delivery service personnel shall examine any one of the following pieces of photographic identification and shall confirm the consumer is of legal age to purchase cannabis:

1. The person's United States passport, passport from another country, or proper government-issued documentation for international travel; provided it is lawful to use as identification in the United States;

2. The person's motor vehicle driver's license, whether issued by New Jersey or by any other state, territory, or possession of the United States, or the District of Columbia, provided the license displays a picture of the person;

3. A New Jersey identification card issued by the New Jersey Motor Vehicle Commission; or

4. Any other identification card issued by a state, territory, or possession of the United States, the District of Columbia, or the Federal government that bears a picture of the person, the name of the person, the person's date of birth, and a physical description of the person.

(b) In order to ensure that individual privacy is protected:

1. A cannabis delivery service shall not collect and/or retain any personal information other than government-issued identification as set forth at (a) above in order to determine the consumer's identity and age;

2. A cannabis delivery service shall not collect and/or retain any personal information about a consumer other than information typically acquired in a financial transaction conducted by the holder of a Class C retail license concerning alcoholic beverages as set forth at N.J.S.A. 33:1-12; and

3. The cannabis delivery service shall not keep a copy of the consumer's photographic identification.

(c) Cannabis delivery service personnel shall log that the examination of photographic identification and confirmation of legal age pursuant to (a) above occurred in a record, and the cannabis delivery service shall maintain such record and it shall be available for inspection by the Commission.

(d) The cannabis delivery service shall not deliver to a consumer in a single sales transaction:

1. More than 28.35 gram (one ounce) of usable cannabis;

2. More than *[five]* *four* grams of solid cannabis concentrate or *[five]* *four* mL of liquid cannabis concentrate (oil);

3. Vaporized formulation containing more than *[five]* *four* mL of liquid cannabis concentrate (oil);

4. Multiple ingestible cannabis-infused products containing an aggregate total of more than 1,000 mg of THC; or

5. More than 28.35 gram (one ounce), or the equivalent, of any combination of usable cannabis and cannabis products.

(e) The cannabis delivery service shall make a good faith effort to prevent a consumer from exceeding one ounce of usable cannabis, or the equivalent weight in cannabis products, in multiple sales transactions.

(f) The cannabis delivery service shall only sell to consumers cannabis items that have been properly tested, packaged, sealed, and labeled in accordance with the provisions at N.J.A.C. 17:30-16.2 and 16.3.

(g) A cannabis delivery service shall provide the consumer with a receipt that includes, at a minimum:

1. The cannabis delivery service's name, address, license number, and telephone number;

2. The cannabis retailer's name, address, license number, and telephone number;

3. The date of retail sale; and

4. The cannabis items purchased and their purchase price.

(h) A cannabis delivery service delivering an electronic smoking device to the consumer shall provide a supplemental information document that:

1. Lists all ingredients or materials used to manufacture the electronic smoking device;

2. Provides instructions to consumers on how to use the electronic smoking device safely as part of intended usage based on manufacturer's recommendations, which shall include, but not be limited to, a recommended number of seconds per dose; and

3. States, "Electronic smoking devices and vaporized formulations of cannabis are not approved by the Food and Drug Administration and have not been proven to be safe for use in humans. Consumers should consider alternative methods for the administration of cannabis."

(i) A cannabis delivery service shall *offer to* provide *clearly visible* information on safe use of cannabis items to consumers *at the point of delivery*, such as *a printed copy of* the information on Safe and Responsible Consumption provided on the Commission website, www.nj.gov/cannabis.

17:30-15.3 Cannabis delivery service recordkeeping

(a) A cannabis delivery service shall keep a complete and accurate record of all cannabis item deliveries made by the delivery service, including the date of purchase and delivery, the cannabis items purchased, the selling entity, and any information required at N.J.A.C. 17:30-14.8(l).

1. Such records shall be kept and maintained for four years, either on-premises or at an off-site facility, in written or electronic form.

(b) A cannabis delivery service license holder shall collect and report to the Commission for each calendar year at least the following statistical data:

1. The number of ounces of usable cannabis purchased and delivered;
2. The number and ounces of cannabis products purchased and delivered;
3. The number of consumers who purchased each cannabis item delivered by the cannabis delivery service;
4. The total number of cannabis item sales transactions; and
5. Such other information as the Commission may require on a case-by-case basis in the administration and enforcement of this chapter.

17:30-15.4 Cannabis delivery service consumer education

(a) A cannabis delivery service shall, prior to the opening date of the cannabis business, establish and implement policies describing its plans for providing information and communicating to consumers as to:

1. Limitations of the right to possess and use cannabis items pursuant to the Act and this chapter;
2. The potential side effects of cannabis use;
3. The differing strengths of cannabis items available for delivery by the delivery service;
4. Safe techniques for use of cannabis items and paraphernalia, noting the potential variations in feeling the effects of cannabis;
5. Alternative methods and forms of consumption or inhalation by which one can use cannabis items;
6. Signs and symptoms of substance abuse;
7. Opportunities to participate in substance abuse programs; and
8. Information on tolerance, dependence, and withdrawal.

(b) A cannabis delivery service shall maintain, and make available to consumers, an adequate supply of up-to-date informational materials addressing the matters identified in the policies developed pursuant to (a) above. A cannabis delivery service may fulfill this obligation by providing the informational materials of the cannabis retailer that fulfills a consumer's purchase order.

1. Informational materials must be available for inspection by the Commission upon request.

17:30-15.5 Cannabis delivery service inventory

(a) The inventory of a cannabis delivery service during delivery shall be dependent on the selling cannabis retailer.

(b) A cannabis delivery service shall not acquire cannabis items, except pursuant to a purchase order from a consumer.

SUBCHAPTER 16. RELEASE FOR DISTRIBUTION; PACKAGING AND LABELING OF CANNABIS ITEMS

17:30-16.1 Processing of cannabis items; release for distribution

(a) Each cannabis cultivator and cannabis manufacturer shall contract with a testing laboratory to obtain and test samples of unusable or usable cannabis and cannabis products.

(b) A cannabis cultivator or cannabis manufacturer shall process unusable or usable cannabis or manufacture cannabis products in a safe and sanitary manner to protect consumers from adulterated cannabis items, which shall be:

1. For usable cannabis, well cured, and free of seeds and stems;
2. Free of dirt, sand, debris, or other foreign matter; and
3. Free of mold, rot, or other fungus or bacterial diseases.

(c) After curing is complete and usable cannabis is in its final dried form, or after manufacturing is complete and cannabis products are in their final form, as applicable, before packaging and release for distribution, a cannabis cultivator or cannabis manufacturer shall ensure that a licensed testing laboratory, in accordance with N.J.A.C. 17:30-19:

1. Obtains a representative sample from a batch of unusable or usable cannabis or a lot of cannabis products;
2. Tests the representative sample; and
3. Provides a written report to the cannabis cultivator or cannabis manufacturer.

(d) The cannabis cultivator or cannabis manufacturer shall hold the batch of unusable or usable cannabis or lot of cannabis products in secure, segregated storage until it receives a written report from the licensed testing laboratory confirming that the representative sample meets specifications.

(e) After it receives a written report confirming that the representative sample meets specifications, the cannabis cultivator or cannabis manufacturer may:

1. Assign an expiration date to the batch or lot;
2. Package the batch or lot and release it for distribution; and
3. Revise the status of the batch or lot in the inventory control.

(f) When the cannabis cultivator or cannabis manufacturer receives a written report confirming that the test results of the representative sample do not meet specifications, the cannabis cultivator or cannabis manufacturer shall not sell the batch or lot to another cannabis business and shall destroy the batch or lot or dispose of it by rendering it unrecoverable and unrecognizable, with the following exceptions:

1. If the written report confirms that the test results for unusable or usable cannabis do not meet specifications for total yeast and mold count, pursuant to ***the microbial contamination*** subsection ***[(f)]*** of the Cannabis Testing Guidance, the cannabis cultivator may sell the batch to a cannabis manufacturer to manufacture the batch into a cannabis extract or cannabis-infused product using a process involving a solvent that leaves no yeast or mold, and where the final cannabis product is tested again prior to sale or transfer; and

2. The cannabis business may retest and remediate pursuant to N.J.S.A. 24:6I-35.a(13)(c).

(g) The cannabis cultivator or cannabis manufacturer shall submit a copy of the written report to the Commission on a form developed by the Commission.

17:30-16.2 Cannabis item packaging requirements

(a) A cannabis cultivator or cannabis manufacturer, as applicable, shall package unusable cannabis for the purposes of manufacturing or cannabis items in packaging compliant with the requirements of this subchapter in a secure area connected to the cultivation or manufacturing area in accordance with this section before transfer to another cannabis business.

1. The unusable or usable cannabis and cannabis products shall be handled on food grade stainless steel tables.

2. Proper sanitation shall be maintained.

3. Proper rodent and bird exclusion practices shall be employed at all times.

(b) Each package of unusable or usable cannabis and cannabis product shall be sealed in a closed container, so that the package cannot be opened, and the contents consumed, without the seal being broken.

1. A container for the packaging of cannabis products, as used in this subsection, shall meet United States Pharmacopeia standards (see Containers under Preservation, Packaging, Storage, and Labeling in the General Notices and Requirements, Containers 661, and Containers—Permeation 671).

2. A container for the packaging of cannabis products, as used in this subsection, shall depend on the physical and chemical properties of the cannabis product; container–cannabis interaction is to be considered with substances such as phenolic compounds and sorptive materials (for example, polypeptides and proteins).

(c) Each package of usable cannabis and cannabis product shall bear a label that complies with N.J.A.C. 17:30-16.3 and shall be affixed with the universal symbol established by the Commission pursuant to N.J.A.C. 17:30-16.6.

(d) Where a cannabis cultivator packages unusable or usable cannabis for the purposes of manufacturing to be sold to another cannabis cultivator or a cannabis manufacturer, such packages may contain any amount of cannabis. Where a cannabis cultivator packages usable cannabis for sale to a cannabis retailer, such packages may contain any increment up to and including one ounce or 28.35 grams.

(e) A cannabis manufacturer shall only package authorized forms of cannabis products, and such packages may contain such amounts in accordance with N.J.A.C. 17:30-11.5.

(f) All packaging for cannabis items shall:

1. Be fully enclosed, opaque, of a single color, and light resistant.

i. Packaging may contain logos or symbols of a different color or colors;

2. Be child-resistant in accordance with the Poison Prevention Packaging Act of 1970, 16 CFR Part 1700;

3. Protect the product from contamination; and

4. Be able to be resealed in a child-resistant manner, unless the package contains a single serving cannabis item.

i. For ingestible products in liquid form with multiple serving units, the container must have a resealing cap or closure.

(g) Once a package is sealed, a cannabis business shall not open the package, except for quality control purposes. Once the seal is broken on a cannabis item ready for sale to the consumer, the cannabis item is deemed unusable.

(h) Cannabis businesses shall make a good faith effort to utilize packaging that is biodegradable.

(i) Subsections (f) and (g) above shall not apply to unusable or usable cannabis packaged and transported to a cannabis manufacturer for the purposes of manufacturing cannabis products. Such unusable or usable cannabis may be packaged in bulk in a resealable container designed to protect the product from contamination.

17:30-16.3 Cannabis item labeling requirements

(a) A cannabis cultivator or cannabis manufacturer, as applicable, shall ensure that each package of unusable or usable cannabis or cannabis product contains all information set forth in this section, whether printed directly on the package, or affixed with a compliant label before transfer to another cannabis business.

(b) Direct printing on the package of, or labels affixed to, unusable cannabis packaged for the purposes of manufacturing of cannabis items shall include the following consumer safety and product information:

1. The name, address, license number, telephone number of the cannabis cultivator, and cannabis manufacturer that produced the cannabis item, as applicable;

2. Net weight and quantity of the unusable cannabis or cannabis items contained in the package;

3. Production or harvest date;

4. Expiration date, consistent with the requirements at N.J.A.C. 17:30-11.8;

5. A sequential serial number, batch or lot number, and bar code to identify the batch or lot associated with cultivation or manufacturing;

6. A list of any other inactive or excipient ingredients besides unusable or usable cannabis or cannabis concentrate used to manufacture a cannabis product or contained within the package;

7. A list of all potential allergens contained within the cannabis product;

8. Whether the cannabis item requires refrigeration;

9. For a finished cannabis item, serving size and the total number of servings contained and the cannabinoid and terpene profile, in milligrams and as a percentage, of the cannabis item and of a single serving size.

i. For example: "The serving size of active THC in this product is X mg. This product contains X servings of cannabis, and the total amount of active THC in this product is X mg."*[.]*

ii. The cannabinoid profile shall reflect for the consumer the total THC, total CBD, and total CBG in the finished cannabis item:

(1) Total THC = (THCA * 0.877) + delta-9-THC; **and***

(2) Total CBD = (CBDA * 0.877) + CBD; *[and]*

*(3) Total CBG = (CBGA * 0.877) + CBG;]*

***iii. The cannabinoid profile may reflect for the consumer the total CBG, total CBN, total CBC, total THCv, total CBDv, or other total cannabinoids in the finished cannabis item:**

(1) Total CBG = (CBGA * 0.878) + CBG;

(2) Total CBC = (CBCA * 0.877) + CBC;

(3) Total THCv = (THCVA * 0.867) + THCv; **and**

(4) Total CBDv = (CBDVA * 0.867) + CBDv;*

10. The strain/cultivar name, listed by scientific terms, if available, and generic or "slang" names;

11. For unusable or usable cannabis, the chemotype, growth method, an indication whether the cannabis was grown using all-organic materials, and a list of any allowable pesticides, fungicides, and herbicides used in cultivation pursuant to N.J.A.C. 17:30-10.9.

i. Chemotypes shall be displayed as:

(1) "High THC, Low CBD," where the THC to CBD ratio is greater than 5:1 and the total THC percentage is 15 percent or greater;

(2) "Moderate THC, Moderate CBD," where the THC to CBD ratio is between 5:1 and 1:5 and the total THC percentage is between five percent and 15 percent;

(3) "Low THC, High CBD," where the THC to CBD ratio is less than 1:5 and the total THC percentage is less than or equal to five percent; or

(4) Where unusable or usable cannabis does not conform to one of the three chemotypes, it shall be listed as the closest chemotype determined by mathematical analysis of the ratio of THC to CBD.

ii. Growth methods include, but are not limited to:

(1) Indoor;

(2) Outdoor;

(3) Soil-grown;

(4) Hydroponic; or

(5) Aquaponic;

12. A summary of the written report detailing the results of the testing laboratory testing, including, but not limited to:

i. Potency of all major cannabinoids detected and listed in the written report; and

ii. A list of major terpenoids detected and listed in the written report;

13. Directions for inhalable, ingestible, or topical administration, as applicable; *[and]*

14. Requirements for proper storage*[.]*; **and***

15. Optionally, a unique URL or QR code for each batch/lot that links to the complete written report.

(c) Labels affixed to cannabis items shall contain the following consumer warnings, as applicable, in no less than six-point font, unless otherwise noted:

1. For all finished cannabis items:

i. "This product contains cannabis";

ii. "This product is intended for use by adults 21 years of age or older and not for resale. Keep out of the reach of children";

iii. "There may be health risks associated with the consumption of this product, including for women who are pregnant, breastfeeding, or planning on becoming pregnant";

iv. "Do not drive a motor vehicle or operate heavy machinery while using this product"; and

v. The nationwide toll-free telephone number used to access poison control centers that is maintained in accordance with 42 U.S.C. § 300d-71;

2. For any cannabis item that contains a total THC percentage greater than 40 percent:

i. "This is a high potency product and may increase your risk for psychosis" printed in no less than 10-point font.

3. For ingestible products:

i. "The intoxicating effects of this product may be delayed by two or more hours" printed in no less than 10-point font.

4. For an electronic smoking device: "This device has not been evaluated or approved by the Food and Drug Administration."; and

5. A label containing any statements about the product other than those specified in this chapter shall contain the following statement prominently displayed, and in boldface type: "This statement has not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure, or prevent any disease."

(d) The cannabis business shall submit the label and any required form to the Commission for recordkeeping.

1. The Commission shall provide a copy of the label to authorized employees of State agencies or local law enforcement agencies, as necessary for these agencies to perform their official duties.

17:30-16.4 Tax stamp and tracking

(a) Every cannabis item shall contain a unique stamp or tag, as prescribed by the Commission, that, at a minimum:

1. Verifies the cannabis item was cultivated, manufactured, and sold by licensed cannabis businesses.

i. The Commission shall utilize the unique stamp or tag to provide the license numbers where the cannabis item was cultivated, manufactured, and sold to consumers who purchase cannabis items;

2. Tracks the batch(es) and lot(s) with which the cannabis item is associated; and

3. Allows the Commission to track compliance with sales tax, municipal transfer tax, and social equity excise fees.

(b) Cannabis businesses shall be responsible for paying any fees, as determined by the Commission, for the unique stamp or tag required by this subchapter.

(c) Until such time as the Commission designates a tax stamp pursuant to this subchapter, the Commission shall authorize cannabis items to be sold without tax stamps.

17:30-16.5 Cannabis item packaging and labeling; prohibitions

(a) The packaging and labeling of cannabis items shall not contain any:

1. Statement, illustration, or image that includes false, misleading, or deceptive, or misreading statements or promotes over-consumption;

2. Resemblance to a trademarked, characteristic, or product-specialized packaging of any commercially available candy, snack, baked good, or beverage;

3. Statement, artwork, or design that could reasonably mislead any person to believe that the cannabis item or package contains anything other than cannabis items;

4. Seal, flag, crest, coat of arms, or other insignia that could reasonably mislead any person to believe that the cannabis items or package have been endorsed, manufactured, or used by any state, county, or municipality, or any agency thereof;

5. Statement, illustration, or image that depicts a child or other person under legal age consuming cannabis items; or

6. Statement, illustration, image, cartoon, color scheme, graphic, or feature that might make the cannabis item or package attractive to children.

i. Examples of images or graphics that are prohibited include, but are not limited to, toys, games, candy, beverages, food products, characters, cartoon characters suggesting the presence of a person under the legal age to purchase cannabis items, or any other depiction designed in any manner to be especially appealing to persons under the legal age to purchase cannabis items.

17:30-16.6 Cannabis item packaging and labeling; universal symbol

(a) Pursuant to N.J.S.A. 24:6I-35, the Commission established a universal symbol indicating clearly to consumers and members of the public that any package of cannabis items contains cannabis.

1. Such symbol shall be imprinted on all packages of cannabis items in a form and manner prescribed by the Commission.

2. Downloadable versions of such symbols and guidelines for how the symbols are to appear shall be located on the New Jersey Universal Symbol For Adult Use Cannabis document on the Commission’s website, <https://www.nj.gov/cannabis>.

SUBCHAPTER 17. ADVERTISING

17:30-17.1 Purpose

(a) This subchapter establishes the requirements for the advertising of cannabis products and cannabis paraphernalia to ensure no advertisement is made in a manner that is appealing to minors or promotes excessive use or illegal activity, or that otherwise presents a significant risk to public health and safety.

(b) The Commission may take enforcement action and punitive action pursuant to N.J.A.C. 17:30-20.5 against a license holder that fails to comply with N.J.S.A. 24:6I-34.b(6) and 35.a(9) and this subchapter, which may include, but is not limited to, specifying a reasonable time period by which the license holder shall cease the non-compliant advertising and remove any advertising still being published or displayed.

17:30-17.2 General advertising requirements and prohibitions

(a) A licensed cannabis business may provide information to the public through advertising, except that no person shall engage in advertisement of a cannabis business, cannabis products, or cannabis paraphernalia, unless such person has reliable evidence that at least 71.6 percent of the audience for the advertisement is reasonably expected to be 21 years of age or older.

(b) Any advertisement of any cannabis product, or cannabis paraphernalia shall contain the following warning: “This product contains cannabis. For use only by adults 21 years of age or older. Keep out of the reach of children. There may be health risks associated with the

consumption of this product, including for women who are pregnant, breastfeeding, or planning on becoming pregnant. Do not drive a motor vehicle or operate heavy machinery while using this product.”

(c) Any advertisement by any licensed cannabis business shall disclose that the facility is licensed by the State of New Jersey.

(d) No person shall advertise any cannabis business, cannabis product, or cannabis paraphernalia:

1. In a manner that would target, or is designed to appeal to, individuals under the legal age to purchase cannabis products, including, but not limited to:

i. A depiction of a person under 21 years of age consuming cannabis items; or

ii. Inclusion of objects, such as toys, characters, or cartoon characters suggesting the presence of a person under 21 years of age, or any other depiction designed in any manner to be especially appealing to a person under 21 years of age;

2. On television, streaming services, or on the radio between the hours of 6:00 A.M. and 10:00 P.M.

i. Advertising online is allowed with no hour restrictions;

3. In any form or through any medium whatsoever within 200 feet of any elementary or secondary school grounds.

i. This paragraph shall not apply to advertisements within the premises of a cannabis retailer;

4. Directed towards location-based devices, including, but not limited to, cellular phones or augmented reality devices, unless the advertising is a mobile device application installed on the device by the owner of the device who is at least 21 years of age, and it includes a permanent and easy opt-out feature and warnings that the use of cannabis items is restricted to persons 21 years of age or older;

5. At or in connection with a charitable, sports, musical, artistic, cultural, social, or other similar event or sponsor such an event, unless the advertiser or sponsor has reliable evidence that no more than 20 percent of the audience at the event is reasonably expected to be under the legal age to purchase cannabis items;

6. On a billboard that is not on the real property where a cannabis business is located;

7. On a sign or placard in an arena, stadium, shopping mall, fair that receives State allocations, or video game arcade, unless such a site is an adult-only facility that prohibits persons under 21 years of age from entering;

8. In a manner that falsely disparages the products of another cannabis business;

9. In a manner that suggests that cannabis items are safe solely based on the fact that they are regulated by the Commission or have been tested by a licensed testing laboratory;

10. In a manner that promotes rapid consumption or overconsumption of cannabis; and

11. By way of any statement or illustration that is deceptive, false, or misleading. For the purposes of this section, a statement or illustration that is “deceptive, false, or misleading” includes, but is not limited to:

i. A representation that one brand or form of cannabis is better, more effective, or safer than other drugs or treatments, including other brands or forms of cannabis, unless such a claim has been demonstrated by substantial scientific or clinical evidence consisting of two or more adequate and well-controlled studies on the basis of which it could fairly and reasonably be concluded by experts qualified by scientific training and experience to evaluate the effectiveness of the product involved that the product will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling or proposed labeling thereof. Substantial evidence shall include such adequate and well-controlled studies that are, as a matter of sound scientific judgment, necessary to establish that a product will have its intended effect;

ii. The use of a quote or a paraphrase out of context or without citing conflicting information from the same source, to convey a false or misleading idea; or

iii. The use of favorable information or conclusions from a study that is plainly inadequate in design, scope, or conduct to furnish significant support for such information or conclusions.

(e) No cannabis business shall:

1. Display, on the exterior of the establishment, any advertisement for cannabis or a certain brand of cannabis product, except that a cannabis business may have external signage for purposes of identifying the building by the licensed name.

i. The signage shall be compliant with local ordinances related to the real property where the cannabis business is located;

2. Use a commercial mascot outside of, or in proximity to, its premises;

3. Display cannabis and cannabis paraphernalia in a manner that is clearly visible to a person from the exterior of a cannabis business;

4. Advertise the price of cannabis products, except that:

i. A cannabis business may make available a catalogue or a printed list of the prices and strains or cultivars of cannabis items at the cannabis business to other cannabis businesses or consumers, as applicable; and

ii. A cannabis business may list its prices on its website ***or a third-party website***; or

5. Produce any items for sale or promotional gifts, such as T-shirts or novelty items, bearing a symbol or references to cannabis.

i. This prohibition shall not pertain to cannabis paraphernalia sold to consumers.

(f) A cannabis business that advertises shall keep records as reliable evidence that the advertisement meets the requirements of this subchapter, which shall be available, upon request, to the Commission.

1. Such records shall include a precise description of the audience that is reasonably expected for an advertisement, and a list of all publications and venues in which an advertisement was published.

SUBCHAPTER 18. LICENSING OF TESTING LABORATORIES

17:30-18.1 Notice of testing laboratory application licensing

(a) Pursuant to section 25 of P.L. 2019, c. 153 (N.J.S.A. 24:6I-18), the Commission shall license testing laboratories that perform testing services.

(b) The Commission shall announce a date upon which it will begin accepting applications from entities seeking to apply for a license to operate a testing laboratory, along with the criteria for such applications.

17:30-18.2 Testing laboratory application; approval; denial; issuance of license

(a) To apply for a testing laboratory license, an applicant for such license shall access an application form from the Commission's website at <https://www.nj.gov/cannabis> and shall submit the completed application online.

1. Application materials submitted to the Commission pursuant to N.J.S.A. 24:6I-18 and this section shall not be considered public records pursuant to N.J.S.A. 47:1A-1 et seq., or the common law concerning access to government records.

(b) The applicant shall include in the application, the following:

1. The legal name of the license applicant applying for a license, a copy of the entity's organizational documents and bylaws, evidence that the business entity is in good standing with the New Jersey Department of the Treasury, and a certificate, certified under the seal of the New Jersey State Treasurer, as to the legal status of the business entity;

2. Documentation of a valid Business Registration Certificate on file with the New Jersey Department of the Treasury, Division of Revenue and Enterprise Services;

3. The mailing and physical addresses of the proposed testing laboratory facility;

4. A list of the names, addresses, and dates of birth of the testing laboratory applicant's owners, principals, and employees, and disclosure of any affiliation with any ATC or cannabis business, or any previous ownership of or employment with any ATC or cannabis business by any of the individuals;

5. A list of all individuals or business entities having direct or indirect authority over the management or standard operating procedures of the testing laboratory applicant;

6. A sworn statement from each of the testing laboratory applicant's owners, principals, and employees attesting that none of them currently hold any ownership or any employment with any ATC or ATC applicant, or cannabis business or cannabis business applicant;

7. Written consent from each owner, principal, or employee of the testing laboratory applicant to being fingerprinted for the purposes of

undergoing a criminal history record background check pursuant to N.J.A.C. 17:30-7.12.

i. A testing laboratory applicant with an owner, principal, or employee who refuses to consent to, or cooperate in, the securing of a criminal history record background check shall not be considered for a cannabis testing laboratory license, except that no criminal history record background check shall be required for an owner, principal, or employee of the testing laboratory applicant who completed a criminal history record background check as a condition of current and active professional licensure or certification, provided it was completed in the previous three calendar years;

8. Evidence of ISO 17025 certification from an accreditation body that requires conformance by the testing laboratory to the International Organization for Standardization (ISO) and the International Electrotechnical Commission (IEC) general requirements for the competence of testing and calibration laboratories (ISO/IEC 17025 standards), as they may be updated or revised, in order to ensure equipment is routinely inspected, calibrated, and maintained;

9. A list of all accreditations, registrations, and certifications held by the testing laboratory applicant, including, but not limited to, from governing bodies, such as the Commission, the New Jersey Department of Health, the New Jersey Department of Environmental Protection, the New Jersey Department of Agriculture, other similar agencies in other states, the U.S. Food and Drug Administration, or the U.S. Department of Agriculture;

10. Evidence of experience related to the testing activities associated with the license sought and ability to comply with the requirements of this chapter and the Act;

11. Certification from each of the testing laboratory applicant's owners, principals, and employees stating that they submit to the jurisdiction of the courts of the State of New Jersey and agree to comply with all the requirements of the laws of the State of New Jersey pertaining to the Commission;

12. An attestation signed by a bona fide labor organization stating that the testing laboratory applicant has entered into a labor peace agreement with such bona fide labor organization; and

13. Any other information the Commission deems relevant in determining whether to grant a license to the applicant.

(c) The applicant may include in the application a sworn statement from each owner, principal, or employee of the testing laboratory applicant attesting that the individual has not been convicted of any disqualifying conviction pursuant to N.J.A.C. 17:30-7.12.

(d) The Commission may verify information contained in each application and accompanying documentation by:

1. Contacting the applicant by telephone, mail, or electronic mail;

2. Conducting an on-site visit;

3. Requiring a face-to-face meeting and the production of additional identification materials if proof of identity is uncertain; and

4. Requiring additional information as the Commission deems reasonably necessary to determine whether a license should be granted.

(e) The Commission shall approve a testing laboratory licensing applicant that:

1. Submits a sufficient application pursuant to (b) above, that provides all requested information and presents only truthful information;

2. Is qualified for a testing laboratory license pursuant to N.J.A.C. 17:30-18.3; and

3. Submits a testing laboratory license application fee in accordance with N.J.A.C. 17:30-7.17.

(f) The Commission shall issue a written notice of its award decision to applicants.

(g) After the license applicant has completed any necessary construction or preparation of the testing laboratory, the license applicant shall request an onsite assessment.

(h) The Commission shall conduct an onsite assessment of the testing laboratory and determine whether its premises, operations, and procedures are consistent with its application, and compliant with the Act and this chapter.

(i) If the Commission determines compliance, it shall issue the testing laboratory license to the license applicant.

(j) A license application the Commission deems incomplete because of failure to address all applicable criteria and measures, to provide requested information, or to present truthful information in the application process shall be disqualified prior to a substantive review of the submission, and such disqualification shall be considered a final agency decision subject to judicial review pursuant to N.J.A.C. 17:30-20.10.

(k) The Commission shall grant a license applicant the opportunity to cure the deficiencies in a license application and resubmit it.

(l) The Commission shall provide notice to a denied license applicant in writing that:

1. Notice of the denial of the annual license and the specific reason for the denial;
2. The filing fee shall be nonrefundable; and
3. The opportunity to request an administrative hearing with the Commission.

(m) An administrative hearing pursuant to (l) above shall take place in the Office of Administrative Law in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and 52:14F-1 et seq., and the Uniform Administrative Procedures Rules, N.J.A.C. 1:1.

(n) The final denial of an application shall be considered a final agency decision, subject to judicial review by, and of which jurisdiction and venue for such review are vested in, the Appellate Division of the Superior Court pursuant to N.J.A.C. 17:30-20.10.

17:30-18.3 Testing laboratory license qualification

(a) A license applicant shall provide the Commission with a complete disclosure that includes all true parties of interest.

1. The license applicant or license holder shall not attempt to conceal or disguise ownership or other control over its operations in its submissions.

(b) The Commission shall determine that a license applicant or license holder is qualified to hold a testing laboratory license where:

1. Each owner, principal, employee, or volunteer of a testing laboratory license applicant or license holder has submitted a criminal history background check pursuant to N.J.A.C. 17:30-7.12 or is excused from doing so pursuant to N.J.A.C. 17:30-18.2(b)7i;

2. No owner, principal, employee, or volunteer of a testing laboratory license applicant or license holder has a disqualifying conviction pursuant to N.J.A.C. 17:30-7.12(d) without evidence of rehabilitation pursuant to N.J.A.C. 17:30-7.12(e);

3. Each owner and principal of the testing laboratory license applicant or license holder is eligible to be an owner or principal, respectively, of the license applicant or license holder in accordance with N.J.A.C. 17:30-6.8;

4. For each person requesting a determination of qualification as part of a license applicant or license holder, the license applicant or license holder has paid a background investigation fee pursuant to N.J.A.C. 17:30-7.17; and

5. The license applicant and its owners and principals do not:

- i. Create a danger to the public health, safety, and general welfare of the State;
- ii. Distribute marijuana to minors;
- iii. Share revenue with a gang or cartel;
- iv. Divert marijuana from personal use or cannabis states to other states;
- v. Engage in trafficking of controlled substances or other illegal activity; or
- vi. Engage in violence or the use of firearms as part of testing laboratory operations.

(c) The Commission shall determine that a license applicant or license holder is not qualified to hold a license where the license applicant or license holder:

1. Does not meet the requirements at (b) above;
2. Fails to provide information, documentation, and assurances as required at P.L. 2021, c. 16 (N.J.S.A. 24:6I-31 et seq.), or this subchapter or as requested by the Commission, including failure to provide a required criminal history record background check or to cooperate with the Commission in its investigation;
3. Fails to reveal any material fact pertaining to qualification; or

4. Supplies information that is untrue or misleading as to a material fact pertaining to the qualification criteria for a testing license.

(d) If a person is determined to be disqualified, such disqualification shall be considered a final agency action subject to judicial review pursuant to N.J.A.C. 17:30-20.10, and the Commission shall provide the determination to the person in writing, which shall include:

1. Notice of the determination of disqualification, including when disqualification is due to a disqualifying conviction pursuant to N.J.A.C. 17:30-7.12(d) or the determination of the absence of sufficient evidence of rehabilitation pursuant to N.J.A.C. 17:30-7.12(e);

2. The specific reason for the disqualification, including any conviction that constitutes the basis for the disqualification pursuant to N.J.A.C. 17:30-7.12(d); and

3. Information about appeal rights pursuant to N.J.A.C. 17:30-20.10.

17:30-18.4 License term; license renewal

(a) A license shall be in effect for a period of one year and shall be renewable annually thereafter.

(b) Ninety days prior to the expiration of a testing laboratory license, a testing laboratory that seeks to renew the license shall submit to the Commission an application for renewal of the license with all required documentation and the required fees pursuant to N.J.A.C. 17:30-18.2.

1. A testing laboratory shall update and ensure the correctness of all information submitted in previous applications for a license or otherwise on file with the Commission.

2. A testing laboratory shall submit a copy of the most recent assessment from the accreditation body as required at N.J.A.C. 17:30-18.5(e).

3. Failure to provide correct and current up-to-date information is grounds for denial of application for renewal of the license.

(c) The license period for a testing laboratory shall be from January 1st (or the date of approval of the application, if later) through December 31st of a given year.

(d) An applicant for renewal of a testing laboratory license shall submit a fee of \$4,000 in a check payable to the "Treasurer, State of New Jersey."

(e) The Commission shall renew the license of a testing laboratory that meets the requirements of this subchapter; the Commission shall deny the application for renewal of the license if the Commission determines that the facility is in violation of the Act or this chapter.

17:30-18.5 Testing laboratory inspection; authorized conduct; ongoing material conditions

(a) No person shall operate a testing laboratory pursuant to this subchapter without a Commission-issued license.

(b) A licensed testing laboratory is subject to inspection by the Commission:

1. To determine the condition and calibration of any equipment used for testing purposes; and

2. To ensure that testing is being performed in accordance with N.J.S.A. 24:6I-19 and 35 and the Commission's accreditation requirements for licensure pursuant to this subchapter.

(c) A testing laboratory license shall permit a testing laboratory to sample and test cannabis items in accordance with the Act and this chapter, as well as sample and test medical cannabis and medical cannabis products in accordance with the provisions of the Jake Honig Compassionate Use Medical Cannabis Act, P.L. 2009, c. 307 (N.J.S.A. 24:6I-1 et seq.), upon certification or licensing pursuant to N.J.S.A. 24:6I-18.

(d) The testing laboratory shall display the license in a conspicuous location at the front entrance to the premises of the licensed facility at all times when the facility is engaged in conduct authorized pursuant to N.J.S.A. 24:6I-1 et seq., involving cannabis.

(e) A licensed testing laboratory shall maintain third-party accreditation from an accreditation body that requires conformance to the International Organization for Standardization (ISO) and the International Electrotechnical Commission (IEC) general requirements for the competence of testing and calibration laboratories (ISO/IEC 17025 standards).

1. A licensed testing laboratory shall routinely inspect, calibrate, and maintain its equipment as required by such accreditation body; and

2. A licensed testing laboratory shall adopt a standard operating procedure to test cannabis and cannabis products that is approved by such accreditation body.

(f) A licensed testing laboratory must notify the Commission about any change to the list of accreditations and certifications submitted in the testing laboratory application, including, but not limited to, those from governing bodies, such as the Commission, the New Jersey Department of Health, the New Jersey Department of Environmental Protection, the New Jersey Department of Agriculture, other similar agencies in other states, the U.S. Food and Drug Administration, or the U.S. Department of Agriculture.

(g) A licensed testing laboratory shall adopt a standard operating procedure that provides for adequate chain of custody controls for samples transferred to the testing laboratory during secure transport and testing.

(h) To maintain the security of the cannabis and cannabis product samples, a licensed testing laboratory shall:

1. Provide additional security during working hours, as needed, to protect testing laboratory employees and cannabis and cannabis product samples in a manner appropriate for the community where it operates;

2. Provide training to inform all testing laboratory employees about the cannabis-related security procedures, and each individual employee's security roles and responsibilities;

3. Securely store cannabis and cannabis products in a manner that prohibits sample degradation, contamination, and tampering; and

4. Create controlled access areas for storage of cannabis and cannabis product samples and cannabis waste.

i. Access to controlled access areas must be limited to testing laboratory personnel by locks, electronic badge readers, biometric identifiers, or other secure means; and

ii. A testing laboratory standard operating procedure must revoke access privileges to controlled access areas for personnel whose employment is terminated by the testing laboratory.

(i) As an ongoing material condition of maintaining a testing laboratory license, a testing laboratory must maintain a labor peace agreement with a bona fide labor organization.

(j) A licensed testing laboratory may perform testing on goods unrelated to cannabis, as long as:

1. The licensed testing laboratory complies with all testing laboratory requirements in this chapter.

2. The licensed testing laboratory segregates cannabis and cannabis product testing from other non-cannabis-related testing performed at the facility, stores cannabis and cannabis products separately and distinctly from other non-cannabis goods and follows all the security requirements at (h) above in the areas where cannabis or cannabis products are present.

(k) A licensed testing laboratory shall conduct an internal audit at least once per year or in accordance with the accrediting body's requirement, whichever is more frequent.

1. The internal audit must include all of the components required by the ISO/IEC 17025 internal audit standards.

2. Within three business days of completing the internal audit, the testing laboratory shall submit the results of the internal audit to the Commission.

(l) A licensed testing laboratory shall not acquire or receive personal use usable cannabis or cannabis products, except from a cannabis business in accordance with this chapter, and shall not distribute, sell, or dispense cannabis or cannabis products, except that:

1. A testing laboratory may receive and test samples of usable cannabis or cannabis products from a consumer and provide a written report to the consumer for a reasonable fee.

i. A testing laboratory may not certify samples from a consumer for resale or transfer to another person, ATC, or cannabis business; and

2. A testing laboratory may receive samples of usable cannabis or cannabis products from a cannabis business and may provide additional optional research and development testing *[before the finished product quality control testing required pursuant to this chapter]*.

SUBCHAPTER 19. PERSONAL USE USABLE CANNABIS AND CANNABIS PRODUCT TESTING PROCEDURES

17:30-19.1 Commission quality control testing; sample collection; chain of custody

(a) To ensure the safety of consumers, a cannabis business shall provide upon request of the Commission one or more samples of usable cannabis or cannabis product to the Commission during announced and unannounced inspections for product quality control, including, but not limited to:

1. A sample from a batch of usable cannabis from the first harvest of a new cultivar; and

2. A unit or units of packaged usable cannabis or cannabis product available for distribution to consumers.

(b) To implement the requirements at (a) above, the Commission shall:

1. Collect soil and plant samples and samples of usable cannabis or cannabis product from the cannabis business, as applicable;

2. Place the license number of the cannabis business on each sample container;

3. Label the sample containers with the date of the sampling, the name of the cultivar/strain, and the quantity of its contents by weight;

4. Seal the sample containers;

5. Have a member of the cannabis business staff and Commission staff initial each sample container; and

6. Have Commission staff transport all sample containers in a lockable box to the New Jersey Department of Health's Public Health and Environmental Laboratories (PHEL) or a licensed testing laboratory for testing.

(c) The Commission shall maintain documentation of the chain of custody of any sample taken in accordance with this chapter.

1. The Commission shall provide a receipt for any collected sample to the license holder representative of the cannabis business.

2. The Commission shall maintain an accounting of all collected sample containers for control purposes, including the Medicinal Marijuana Testing Laboratories Specimen Submittal form, incorporated herein by reference, as amended or supplemented, and found on its website at <https://www.nj.gov/health/phel/documents/ECLS/CTL-1.pdf>.

(d) The Commission shall use PHEL or a licensed testing laboratory to test samples.

1. Sample testing may include tests for, among other things, cannabinoid content, the presence of pests, mold and mycotoxins, mildew, heavy metals, and pesticides to ensure the accuracy of labeling.

2. PHEL shall conduct testing according to the following "Laboratory SOPs for Medicinal Marijuana," which are incorporated herein by reference, as amended or supplemented, and found on its website at <https://www.nj.gov/health/phel/env-testing/chemical-terrorism-lab/>:

i. Standard Operation Procedure for Qualitative and Quantitative Determination of Major Cannabinoids in Cannabis Plant Material;

ii. Standard Operating Procedure for the Screening of Marijuana for Toxic Metals by Inductively Coupled Plasma Mass Spectrometry; and

iii. Assessing Presence of Aflatoxins and Ochratoxin A in Medical Marijuana Using HPLC.

3. The Department shall issue written reports of the results of its testing to the cannabis business.

4. The cannabis business shall pay the expenses for the testing.

(e) The first harvest of a new cultivar shall be segregated until the cannabis business receives the written report that the sample meets specifications, and the batch may be released for distribution.

(f) A written report that the sample does not meet specifications shall yield further testing by PHEL or a testing laboratory of that batch or lot and other batches from the same growth area or lots from the same manufacturing area and may yield a recall and destruction of the usable cannabis or cannabis products, as determined by the Commission.

17:30-19.2 Testing of every batch and lot

(a) In addition to testing of usable cannabis and cannabis products by the Commission in accordance with N.J.A.C. 17:30-19.1, each batch of usable cannabis and each lot of cannabis products manufactured shall be tested in accordance with the requirements at N.J.S.A. 24:61-35 and this

subchapter by a testing laboratory licensed pursuant to N.J.S.A. 24:6I-18 and N.J.A.C. 17:30-18.

(b) Before any usable cannabis or cannabis product is packaged and prepared for distribution pursuant to N.J.A.C. 17:30-16.2, they shall be sampled and tested by a licensed testing laboratory and then the cannabis business shall hold them in secure, segregated storage.

1. After the cannabis business receives a written report from a licensed testing laboratory confirming the representative sample meets specifications, the cannabis business may release the usable cannabis or cannabis products for distribution.

(c) The testing laboratory may charge a reasonable fee for any test performed pursuant to this subchapter, which the cannabis business or consumer of cannabis, as applicable, shall pay.

17:30-19.3 Testing laboratory sample collection; chain of custody

(a) Upon request of a cannabis business when a batch or lot is ready for testing, a testing laboratory employee shall initiate a sample collection for all applicable tests before packaging:

1. After usable cannabis is in its final usable form, including placement of usable cannabis in a pre-roll, ready to be manufactured into a cannabis product, or ready to be distributed for personal use; or

2. After a cannabis product is in its final processed form, including placement of vaporized formulation in its electronic smoking device or oil in its pressurized metered dose inhaler, or ready to be distributed for personal use.

(b) A testing laboratory employee shall collect a representative initial sample and a representative retention sample from each batch of usable cannabis from a cannabis business that cultivates and from each lot of cannabis products from a cannabis business that manufactures according to a statistically valid sampling method.

1. A cannabis business employee shall be physically present to observe the testing laboratory employee collect any sample.

2. The cannabis business employee shall not touch the usable cannabis, cannabis product, or the sampling equipment while the testing laboratory employee is collecting the samples.

3. The testing laboratory employee shall collect a representative initial sample and a representative retention sample of each batch or lot by removing increment samples of material or units from throughout the container(s) in the batch or lot in the manner required at (b)3i and ii below.

i. Where appropriate for the purpose of the sample and the nature of the material being sampled, sample portions are removed from the top, middle, and bottom of containers.

ii. Containers from which samples have been taken shall be marked to indicate that samples have been removed from them.

4. A representative initial sample of usable cannabis shall be .5 percent of a batch or lot, with the following increment sample amounts:

i. Less than or equal to 10 pounds of usable cannabis, five increment samples;

ii. 10.1-20 pounds of usable cannabis, 10 increment samples;

iii. 20.1-30 pounds of usable cannabis, 15 increment samples;

iv. 30.1-40 pounds of usable cannabis, 20 increment samples;

v. 40.1-50 pounds of usable cannabis, 25 increment samples; and

vi. 50.1-100 pounds of usable cannabis, 30 increment samples.

5. A representative initial sample of non-homogenizable cannabis product shall be:

i. 50 or less total units, two increment units;

ii. 51-150 total units, three increment units;

iii. 151-500 total units, five increment units;

iv. 501-1,200 total units, eight increment units;

v. 1,201-3,200 total units, 16 increment units;

vi. 3,201-10,000 total units, 40 increment units; and

vii. 10,001-35,000 total units, 125 increment units.

6. A representative retention sample shall be two times the amounts listed for representative initial samples of a batch or lot at (b)4 and 5 above.

7. When collecting representative samples, the testing laboratory employee shall:

i. Clean, open, sample, and reseal the containers in a manner designed to prevent introduction of contaminants; and

ii. Use sterile equipment and aseptic sampling techniques when necessary.

(c) After completing sample collection, the testing laboratory employee shall place the cannabis business license number and affix a label with a description and the quantity of the content on each sample container.

(d) The testing laboratory employee shall seal each sample container.

(e) The cannabis business employee and the testing laboratory employee shall initial each sample container.

(f) The testing laboratory employee shall provide a receipt for the collected samples to the cannabis business employee.

(g) The cannabis business employee shall record the samples removed from a batch or lot in the inventory record for the batch or lot.

(h) The testing laboratory employee shall transfer the representative retention samples to the cannabis business employee, who shall store them pursuant to N.J.A.C. 17:30-19.5.

(i) The testing laboratory employee shall securely transport any usable cannabis and cannabis product representative initial samples in a secure lockbox.

1. The testing laboratory employee shall not leave cannabis or cannabis products in an unattended transfer vehicle, unless the vehicle is locked and equipped with an active vehicle alarm system.

2. The testing laboratory employee engaged in a transfer of cannabis or cannabis products shall have access to a secure form of communication with the testing laboratory, such as a cellular telephone, at all times that the testing laboratory employee is in possession of cannabis or cannabis products for transfer.

3. The testing laboratory employee shall carry a copy of their Cannabis Business Identification Card when performing a transfer and shall produce it upon request of Commission staff or law enforcement officials.

4. The transfer vehicle shall be equipped with a secure lockbox in a secured cargo area, which shall be used for the sanitary and secure transport of cannabis or cannabis products.

5. The testing laboratory shall maintain current hired and non-owned automobile liability insurance sufficient to insure all transfer vehicles in the amount of not less than one million dollars per occurrence or accident.

6. The testing laboratory shall ensure that transfer vehicles used to transport cannabis or cannabis products bear no markings that would either identify or indicate that the vehicle is used to transport cannabis.

7. The testing laboratory shall ensure that transfers are completed in a timely and efficient manner. While performing transfers of cannabis or cannabis products, the testing laboratory employee shall travel only from the premises of the cannabis business to the testing laboratory. The testing laboratory employee shall not deviate from the route described in this paragraph, except in the event of emergency, or as necessary, for rest, fuel, or vehicle repair stops, or because road conditions make continued use of the route or operation of the vehicle unsafe, impossible, or impracticable.

8. The testing laboratory shall report any vehicle accidents, diversions, losses, or other reportable events that occur during transfer to the Commission within seven days.

(j) At the testing laboratory, a testing laboratory employee shall record the receipt of the samples, including the following:

1. Name and contact information for the cannabis business or individual who provided the samples;

2. Description of cannabis or cannabis product;

3. Batch or lot number;

4. Unique sample identifier;

5. Quantity of sample by net and gross weight or volume during sample collection;

6. Date and time of receipt of sample;

7. Testing laboratory employee who collected the sample;

8. Cannabis business employee who observed sample collection;

9. Testing laboratory employee who received sample; and

10. Quantity of sample by gross weight during sample receipt.

17:30-19.4 Testing laboratory procedures and specifications for testing usable cannabis and cannabis products

(a) The testing laboratory shall test the initial samples of cannabis and cannabis product collected in accordance with N.J.A.C. 17:30-19.3 to confirm whether the samples meet the specifications of this section

according to the standard operating procedures of the laboratory that have been approved by the accreditation body pursuant to N.J.A.C. 17:30-18.5(e).

1. The testing laboratory shall analyze the samples according to the Cannabis Regulatory Commission's Testing Guidance, available on the Commission website, except when otherwise required by this subchapter and the Cannabis Regulatory Commission's Testing Guidance, the testing laboratory shall analyze the samples according to the most current version of the cannabis inflorescence monograph published by the American Herbal Pharmacopeia (AHP).

(b) If the initial sample does not meet the specifications of this section:

1. The testing laboratory shall follow their standard operating procedure to confirm or refute the original results; and

2. The license holder may be permitted an opportunity to remediate pursuant to N.J.S.A. 24:61-35.a(13)(c), upon notice to the Commission, the batch or lot from which the failed sample was taken, which batch or lot shall be subject to a subsequent test of a new representative sample.

(c) The testing laboratory shall retain the remains of the initial sample for *[45]* *30* days after analysis is completed. At such time, the testing laboratory shall destroy or render unrecoverable and unrecognizable the remains of the initial sample.

17:30-19.5 Retention samples and stability testing

(a) A cannabis business shall properly store the retention sample from each batch or lot released for distribution for personal use:

1. By using the same container in which the usable cannabis or cannabis product is distributed;

2. Under conditions consistent with the storage conditions recommended on the product label or, if no storage conditions are recommended on the label, under ordinary storage conditions; and

3. Undisturbed at the designated storage temperature for the appropriate time interval.

(b) At six months and 12 months after the release of the batch or lot, the cannabis business shall provide the testing laboratory with a portion of the retention sample for stability testing.

(c) The testing laboratory shall perform stability testing of the retention sample of usable cannabis and cannabis products for the cannabinoid content pursuant to ***the cannabinoid and terpene potency*** subsections ***[(c) and (d)]*** of the Cannabis Regulatory Commission's Testing Guidance to:

1. Ensure product potency and purity; and

2. Support or debunk the listed expiration date of the batch or lot.

(d) If the stability testing debunks the listed expiration date of the batch or lot, the cannabis business shall amend its standard operating procedure on choosing an expiration date for a batch or lot and base its amended standard operating procedure on the results of stability testing.

(e) The testing laboratory shall perform stability testing of the retention sample of usable cannabis and cannabis products for:

1. Microbial contamination, pursuant to ***the microbial contamination*** subsection ***[(f)]*** of the Cannabis Regulatory Commission's Testing Guidance; and

2. Water activity, pursuant to ***the water activity*** subsection ***[(h)]*** of the Cannabis Regulatory Commission's Testing Guidance.

(f) The testing laboratory shall perform stability testing of the retention sample of vaporized formulation in an electronic smoking device for heavy metals, pursuant to ***the heavy metals*** subsection ***[(k)]*** of the Cannabis Regulatory Commission's Testing Guidance.

(g) The cannabis business shall report the findings of the stability testing to the Commission, to ensure that usable cannabis and cannabis product purity and potency are maintained throughout the storage process without the stored products falling out of specification.

(h) If the sample falls out of specification, the cannabis business shall amend its standard operating procedure for packaging and storage and base its amended standard operating procedure on the results of the stability testing.

(i) In the case of an adverse event reported to the cannabis business or the Commission related to cannabis or cannabis products from the batch or lot pursuant to N.J.A.C. 17:30-9.16, the cannabis business shall provide the testing laboratory with a portion of the retention sample for confirmatory testing by the testing laboratory.

(j) A cannabis business shall destroy the remains of the retention sample, if any, rendering it unrecoverable and unrecognizable, six months after the expiration of the batch or lot.

17:30-19.6 Written reports

(a) The testing laboratory performing any testing pursuant to this subchapter shall produce a written report detailing the results of all testing for each representative sample and provide it to the cannabis business, or consumer, as applicable, as well as the Commission.

(b) The written report must include:

1. The name, address, license number, and contact information of the testing laboratory;

2. The name, address, and license number of the cannabis business;

3. The representative sample's batch or lot number;

4. The unique sample identifier number;

5. The form of the product;

6. The history of the representative sample, including the date collected, the date received by the testing laboratory, the analytical methods used for the test, and the date(s) of sample analyses and corresponding testing results;

7. For cannabis, the weight of the representative sample and the total weight of the batch; for cannabis products, the total unit count and weight of the representative sample and the total number of units and weight of the lot;

8. The analytical methods and instrumentation used for each test;

9. The concentrations of the cannabinoids and terpenes listed at ***the cannabinoid and terpene potency*** subsections ***[(c) and (d)]*** of the Cannabis Regulatory Commission's Testing Guidance; and

10. The level of the contaminants listed at ***the visual inspection, water activity, harmful additives, microbial contamination, mycotoxin contamination, pesticides, residual solvents, and heavy metals*** subsections ***[(a) and (e) through (k)]*** of the Cannabis Regulatory Commission's Testing Guidance and whether that level meets specifications and should be marked "pass," or whether that level exceeds the levels provided and should be marked "fail."

(c) A supervisor at the testing laboratory shall validate the accuracy of the information contained in the written report and sign and date the written report.

(d) The cannabis business must provide the written report to any other cannabis business receiving the usable cannabis or cannabis product. The cannabis retailer selling the usable cannabis or cannabis product to a consumer must include a summary of the written report.

17:30-19.7 Testing laboratory recordkeeping

(a) The testing laboratory shall maintain documentation of the chain of custody of samples taken.

(b) The testing laboratory shall maintain a copy of all receipts for the collected samples and written reports provided to cannabis businesses and consumers.

(c) The testing laboratory shall maintain an accounting of all collected samples for control purposes for at least five years. This shall include:

1. Name of the cannabis business or individual who requested the testing;

2. Date of the order and date of the testing;

3. Form of product and strain, if applicable;

4. Weight of sample;

5. All written reports;

6. Further correspondence with the cannabis business, qualifying patient, or primary caregiver regarding the results of the analysis;

7. All records of destruction of the sample; and

8. The price charged to the cannabis business or individual who requested the testing for the testing services provided.

(d) The testing laboratory shall maintain records of inspection, calibration, and maintenance of all equipment. These records shall include:

1. The date of the inspection, calibration, or maintenance;

2. The person who performed the inspection, calibration, or maintenance;

3. The standard operating procedure used for the inspection, calibration, or maintenance;

4. Any deviations from the standard operating procedure;

5. If the inspection, calibration, or maintenance involves a repair:
 - i. How and when the need for the repair was discovered;
 - ii. The nature of the repair;
 - iii. Post-repair certification that the equipment is in proper working order; and
 - iv. Any corrective action made to standard operation procedures in response to the repair; and
6. The result of the inspection, calibration, or maintenance.

17:30-19.8 Testing laboratory testing requirements transition period

(a) The requirements at N.J.A.C. 17:30-19.2 through 19.7 shall take effect at such time as the Commission certifies that a sufficient number of testing laboratories have been licensed pursuant to N.J.S.A. 24:61-18 or 35 and N.J.A.C. 17:30-18 to ensure that all personal use usable cannabis and cannabis products can be promptly tested consistent with the requirements of this subchapter without disrupting patient access to medical cannabis.

1. The Commission shall publish in the New Jersey Register a notice of certification that a sufficient number of testing laboratories have been licensed.

2. Once the requirements at N.J.A.C. 17:30-19.2 through 19.7 have taken effect, a licensed testing laboratory shall not make operational changes that reduce the prompt testing of medical cannabis and medical cannabis products, thereby disrupting patient access to medical cannabis, in order to test samples of personal use usable cannabis and cannabis products.

SUBCHAPTER 20. MONITORING, ENFORCEMENT ACTIONS, AND APPEAL RIGHTS

17:30-20.1 Purpose

(a) This subchapter establishes the procedures for monitoring, inspecting, and assessing premises and records of license holders pursuant to this chapter, and the procedures governing the issuance of notices of violation, the assessment of sanctions or penalties, including civil monetary penalties and the denial, suspension, or revocation of any license issued pursuant to the Act. This subchapter also governs the procedures for the submission and review and grant or denial of any requests for adjudicatory hearings.

(b) The Commission may require license holder compliance with the Act and may make such investigations as it shall deem proper in the administration of the Act, and any other laws that may hereafter be enacted concerning cannabis.

1. The Commission may appoint auditors, investigators, and other employees that the Commission considers necessary to enforce its powers and perform such duties.

17:30-20.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise:

“Concurrent violations” means violations that occur within the same 24-hour period. The penalties for concurrent violations shall generally be calculated based on the same level of violation.

“Major license violations” mean violations that affect public health or safety or betray the public trust and include, but are not limited to:

1. Selling usable cannabis or cannabis products containing any other Federally controlled substance, including, but not limited to, opioids, stimulants, or hallucinogens;
2. Using prohibited agricultural chemicals that pose a threat to the health of consumers, or the health of individuals employed by a cannabis business if not handled in accordance with the chemical manufacturer’s instructions;
3. Marketing, selling, distributing, selling, or transferring usable cannabis or cannabis products to a person under 21 years of age or not approved by the Commission pursuant to the Act and this chapter;
4. Selling or transporting cannabis items outside New Jersey in violation of Federal law;
5. Destroying, damaging, altering, tampering with, removing, or concealing potential evidence of a violation pursuant to this subsection, attempting to do so, or asking or encouraging another person to do so;

6. Submission of fraudulent, false, or misleading information as to a material fact to the Commission, or falsifying any record required to be maintained by the cannabis business;

7. Involving a person in the operation of a cannabis business or testing laboratory who has not been authorized by the Commission to be involved in such operations;

8. Diverting any usable ***or unusable*** cannabis, cannabis product, or other item subject to regulation by the Commission to the illicit market;

9. Operating a cannabis business or testing laboratory in a manner that adversely affects the public health, safety, or general welfare of consumers, the individuals working in the cannabis business or testing laboratory, or the neighborhood surrounding its premises;

10. Having had three or more instances of failing to have on the premises or at the administrative office, at all times during the hours of operation and periods of apparent activity, a Cannabis Business Identification Cardholder who is authorized to allow and cooperate with Commission requests to inspect the premises or administrative office;

11. Refusing to permit the Commission to inspect the premises or administrative office during hours of operation or periods of apparent activity; or

12. Other conduct that shows willful or reckless disregard for the health or personal safety of any person.

“Successive violations” means two or more violations of the same duty or responsibility that occur outside of the same 24-hour period. The penalties for successive violations shall generally be calculated based upon the number of violations occurring within a two-year period from the date of disposition of any prior violation(s).

“Violation” means each breach of duty or responsibility imposed by the Act or this chapter.

17:30-20.3 Onsite assessment

(a) A cannabis business or testing laboratory shall permit and facilitate scheduled and unscheduled onsite assessments, at any time without notice, by the Commission, or its designee, as a condition of obtaining and maintaining licensure.

1. The cannabis business or testing laboratory shall allow the Commission, or its designee, access to its premises or administrative office to conduct the onsite assessment.

2. A refusal to allow entry by the Commission, or its designee, or to cooperate with an onsite assessment is grounds for penalty, including revocation or denial of a license and for a referral of the matter to State law enforcement agencies.

3. The Commission shall not be required to obtain a search warrant to conduct an investigation or search of the cannabis business premises or administrative office.

(b) During an onsite assessment, a cannabis business or testing laboratory shall:

1. Demonstrate compliance with the Commission’s standards as set forth in this chapter for the conduct of business or the methods for which licensure is sought or granted; and

2. Provide the Commission, or the Commission’s designee, immediate and complete access to any material and information, including sales and other financial records.

(c) During any inspection, the Commission may require proof that a person performing work at the cannabis business or testing laboratory premises or administrative office is at least 21 years of age.

1. If the person does not provide the Commission with acceptable proof of age upon request, the Commission may require the person to immediately cease any activity and leave the premises or administrative office until the Commission receives acceptable proof of age.

(d) An onsite assessment may include, but not be limited to:

1. The inspection and examination of the premises or administrative office, including any buildings, for the purpose of determining compliance with the Act and this chapter;

2. The review or audit of all documents, records, books, accounts, and papers of the license holder on the cannabis business premises or administrative office, and the making and retaining of copies and/or extracts from such documents, records, books, accounts, and papers;

3. The use of any computer system at the cannabis business or testing laboratory to examine electronic data;

4. The reproduction and retention of any document or electronic data in the form of a printout or other output;

5. The examination and collection of samples of any cannabis item found at the cannabis business or testing laboratory;

6. The seizure and detention of any cannabis item or thing believed to contain cannabis found at the cannabis business or testing laboratory, provided that:

i. If the Commission makes a seizure, it shall take such measures as are reasonable in the circumstances to give to the owner or other person in charge of the place where the seizure occurs notice of the seizure;

ii. If the Commission determines that the detention of the substance or thing seized is no longer necessary to ensure compliance with applicable law and the cannabis business or testing laboratory license, the Commission shall notify, in writing, the license holder of that determination and shall return the substance or thing to the license holder, upon the license holder issuing a receipt to the Commission for the return of the substance or thing; and

iii. The Commission shall maintain documentation of the chain of custody of seized substances or things, in accordance with N.J.A.C. 17:30-19.1; and

7. The inspection of a testing laboratory to determine the condition and calibration of any equipment used for testing purposes and to ensure that testing is being performed in accordance with the requirements at N.J.S.A. 24:61-19 and N.J.A.C. 17:30-19.

17:30-20.4 Notice of violation; corrective action

(a) During an onsite assessment, a review of financial records, or other Commission review of the license holder and its operations, if the Commission identifies a violation of the Act or this chapter, the Commission shall provide notice of the violation, including an official written report of the findings and the nature of the violation, to the cannabis business or testing laboratory within seven business days following the onsite assessment or other identification of the violation.

1. Such notice may be provided by service of written notice or the receipt of a written notice from an investigating officer that a violation has occurred, which may be presented to the license holder's owner, principal, or manager at the licensed premises or administrative office, or through other reasonable form of notice, such as certified mail or personal service pursuant to N.J. Ct. R. 4:4-4.

(b) Unless otherwise specified by the Commission, within 20 business days of receipt of the notice of violation pursuant to (a) above, the cannabis business or testing laboratory shall:

1. Correct the violation(s); and

2. Notify the Commission, in writing, with a postmark date that is within 20 business days of the date of receipt of the notice of violation, of any corrective actions taken to correct the violations, and the date of implementation of such corrective actions.

(c) The violation identified pursuant to (a) above shall not be deemed corrected until the Commission verifies, in writing, within seven calendar days of receiving notice of corrective action pursuant to (b) above that the corrective action is satisfactory.

(d) If the violation identified pursuant to (a) above has not been corrected in accordance with (b) above, the Commission may, in its discretion, issue a notice of proposed suspension or revocation to the license holder and seek to revoke the cannabis business license in accordance with N.J.A.C. 17:30-20.8.

17:30-20.5 Enforcement action and sanctions for noncompliance

(a) In response to a violation of any provision of the Act or this chapter, the Commission is authorized to take enforcement action or impose sanctions upon a license holder. Sanctions may include, but are not limited to, civil monetary penalties; suspension, revocation, non-renewal, or denial of a license; referral to State or local law enforcement, pursuant to N.J.A.C. 17:30-20.6, 20.7, and 20.8; or any combination thereof.

1. The Commission shall refer complaints involving alleged criminal activity made against a cannabis business, testing laboratory, or any personnel thereof to the appropriate State or local law enforcement agency.

(b) The Commission may, in its discretion, impose multiple enforcement actions or sanctions pursuant to the Act and this chapter to be applied concurrently or consecutively.

(c) No enforcement action against any license shall be made until a five-day notice of enforcement action against the licensee shall have been given by the Commission to the licensee personally, or by certified mail, return receipt requested, and ordinary mail, and reasonable opportunity to be heard thereon afforded to the licensee. The notice shall set forth the specific violations, charges, or reasons for the action.

17:30-20.6 Civil monetary penalties; summary proceedings

(a) This section sets forth civil monetary penalties for violations of the Act or this chapter and enforcement procedures for imposing and collecting civil monetary penalties by the Commission.

(b) A monetary penalty imposed by the Commission on a license holder pursuant to this subchapter may not exceed \$500,000 per violation. Penalties may be imposed on a license holder as follows:

1. Not more than \$500,000 per major license violation; and

2. Not more than \$50,000 per any other license violation.

(c) A violation by each entity or person per day shall constitute a separate incident for purposes of calculating the number of violations.

(d) The Commission may impose greater penalties for successive violations up to the maximum amounts set forth at (b) above.

(e) The penalty for a subsequent violation shall only be imposed if the license holder has been notified of the prior violation or violations.

1. Such notice may be provided by service of written notice or the receipt of a written notice from an investigating officer that a violation has occurred, which may be presented to the license holder's owner, principal, or manager at the licensed premises or administrative office, or other reasonable form of notice such as certified mail or personal service pursuant to N.J. Ct. R. 4:4-4.

2. If violations are discovered during an undercover or unannounced inspection or onsite assessment, then no notice of any prior violation is necessary to impose the penalty for a subsequent violation.

(f) Notwithstanding anything in this section, the Commission may, in the Commission's sole discretion, consider additional factors in determining the penalty for each violation. Such factors may include, but are not limited to:

1. Any prior violations that the license holder has admitted to or was found to have engaged in;

2. Good faith measures by the license holder to self-report or prevent the violation;

3. The license holder's record of compliance with the laws and rules pertaining to personal use cannabis;

4. Corrective action(s) taken by the license holder related to the current violation or prior violations;

5. Willfulness and deliberateness of the violation;

6. Likelihood of reoccurrence of the violation; and

7. Violations involving damage or danger to the life, health, welfare, safety, or property of any person.

(g) Any penalties, costs, and/or fees pursuant to this subsection may be imposed and collected by the Commission in a summary proceeding pursuant to the Penalty Enforcement Law of 1999, P.L. 1999, c. 274 (N.J.S.A. 2A:58-10 et seq.).

(h) The Commission may additionally seek reimbursement for the costs of the State, including, but not limited to:

1. Costs of investigation, expert witness fees and costs, attorney fees and costs, and transcript costs for violations; and

2. Costs of cleaning up, mitigating, or remedying any environmental damage caused by a cannabis business or testing laboratory.

(i) The license holder may request an adjudicatory hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and 52:14F-1 et seq., to contest the Commission's imposition of a civil monetary penalty for any license violation within 14 days of receipt of the notice of civil monetary penalty.

(j) If the license holder requests an adjudicatory hearing pursuant to (i) above, the Commission shall arrange for a hearing to be conducted by the Commission and a final agency decision shall be issued after the hearing by the Commission.

1. If the Commission affirms the civil monetary penalty, it shall become final.

(k) The cannabis business may, pursuant to N.J.A.C. 17:30-20.10, apply for injunctive relief against the Commission’s civil monetary penalty in the New Jersey Superior Court, Appellate Division.

17:30-20.7 Classification of violations

(a) Violations shall be categorized as follows:

1. Category I, which is the exhibition of a pattern and practice of violating the requirements of the rules, posing a serious risk of harm to the health, safety, or welfare of consumers or personnel;

2. Category II, which is the failure to comply with administrative requirements, such that the licensee or permittee poses an immediate and serious risk of harm or actual harm to the health, safety, or welfare of consumers, personnel, or the general public, including, but not limited to, transfer of cannabis to a person under 21 years of age;

3. Category III, which is the submission of fraudulent, false, or misleading information, as to a material fact, to the Commission, or falsifying or concealing any record required to be maintained by the license holder;

4. Category IV, which is the failure of any owner, principal, management services contractor, employee, or volunteer of a cannabis business license holder or testing laboratory to register with the Commission and be issued a Cannabis Business Identification Card; or failure to complete training course, or failure to be in physical possession of their Cannabis Business Identification Card while acting in the course of their duties; and

5. Category V, which shall consist of other violations of the Commission’s rules, or violations of valid ordinances established by municipalities that do not constitute a major violation.

(b) The Commission shall issue sanctions for violations of this chapter that account for the particular circumstances of the violation. The Commission shall consider, at a minimum, issuing the following sanctions for violations:

Category	Violation 1	Violation 2	Violation 3	Violation 4 or any subsequent violation
I	Revocation			
II	\$500,000	Suspension	Revocation	
III	\$250,000	\$500,000	Revocation	
IV	\$10,000	\$25,000	\$50,000	Suspension
V	\$5,000	\$10,000	\$25,000	\$50,000

(c) A license holder shall pay an imposed civil monetary penalty by the time specified by the notice of enforcement action.

17:30-20.8 Summary suspension of a license

(a) The Commission may order the summary suspension of a license for cause upon a finding that one or more violations pose an immediate threat to consumers or to the health, safety, or welfare of the public, including, but not limited to:

1. Failure to comply with or satisfy any provision of this chapter;
2. Failure to allow a monitoring visit by authorized representatives of the Commission;
3. Falsification of any material or information submitted to the Commission;
4. Diversion of cannabis, as determined by the Commission; or
5. Threatening or harming a consumer, personnel, or an employee or representative of the Commission.

(b) Upon a finding described at (a) above, the Commission, or the Commission’s designee, shall serve written notice by certified mail to the cannabis business or testing laboratory or its license holder representative of the nature of the findings and violations and the proposed order of suspension.

1. Except in the case of a life-threatening emergency, the notice shall provide the license holder with 72 hours from receipt to correct the violations and provide proof to the Commission of such correction.

(c) A license holder may request an adjudicatory hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and 52:14F-1 et seq., to contest the Commission’s notice of proposed suspension pursuant to (b) above within 48 hours of receipt of such notice.

(d) If the Commission determines the violations have not been corrected, and the cannabis business or testing laboratory has not requested an adjudicatory hearing pursuant to (c) above, then the license shall be deemed suspended, effective immediately.

1. Upon the effective date of the suspension, the license holder shall cease and desist operations.

(e) If the license holder requests an adjudicatory hearing pursuant to (c) above, the Commission shall arrange for an immediate hearing to be conducted by the Commission and a final agency decision shall be issued after the hearing by the Commission.

1. If the Commission affirms the proposed suspension of the license, the order of suspension shall become final.

2. The license holder may, pursuant to N.J.A.C. 17:30-20.10, apply for injunctive relief against the Commission’s final order of suspension in the New Jersey Superior Court, Appellate Division.

3. The Commission may rescind the order for suspension upon a finding that the license holder has corrected the conditions that were the basis for the action within the time period specified for corrective action.

17:30-20.9 Revocation of a license

(a) The Commission may revoke a cannabis business or testing laboratory license for cause in the following circumstances:

1. The cannabis business or testing laboratory has failed to comply with administrative requirements related to its license, posing an immediate and serious risk of harm or actual harm to the health, safety, or welfare of consumers, the public, or personnel, and the cannabis business or testing laboratory has not corrected such violations in accordance with an approved plan of corrective action or subsequent to imposition of other enforcement actions issued pursuant to this chapter;

2. The cannabis business or testing laboratory has exhibited a pattern and practice of violating the requirements of this chapter, posing a serious risk of harm to the health, safety, or welfare of consumers, the public, or personnel.

i. A pattern and practice may be demonstrated by the repeated violation of identical, or substantially related, license standards during three onsite assessments or the issuance of civil monetary penalties pursuant to the Act or other enforcement actions for unrelated violations on three or more onsite assessments; or

3. Failure of a cannabis business or testing laboratory to correct identified violations that led to the issuance of an order for summary suspension of a license.

(b) Upon a finding described at (a) above, the Commission, or the Commission’s designee, shall serve written notice by certified mail to the cannabis business or testing laboratory or its license holder representative of the nature of the findings and violations and the proposed order of revocation.

(c) The license holder has a right to request an adjudicatory hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and 52:14F-1 et seq., to contest the Commission’s notice of proposed revocation pursuant to (b) above within 48 hours of receipt of such notice.

(d) If the license holder requests an adjudicatory hearing pursuant to (c) above, the Commission shall arrange for an immediate hearing to be conducted by the Commission and a final agency decision shall be issued after the hearing by the Commission.

1. If the Commission affirms the proposed revocation of the license, the order of revocation shall become final.

2. The license holder may, pursuant to N.J.A.C. 17:30-20.10, apply for injunctive relief against the Commission’s final order of revocation in the New Jersey Superior Court, Appellate Division.

3. The Commission may rescind the order for revocation upon a finding that the license holder has corrected the conditions that were the basis for the action within the time period specified for corrective action.

17:30-20.10 Appeal rights

(a) If the Commission affirms a summary suspension or revocation of a license in an adjudicatory hearing, the Commission shall provide to the suspended or revoked license holder written notice of the final order of suspension or revocation and the specific reason for the suspension or revocation.

(b) Disqualification of a license application, denial of a license application upheld by the Commission after an administrative hearing,

and summary suspension or revocation of a license affirmed by the Commission shall be considered a final agency decision subject to judicial review as provided in the Rules of the Court by, and of which jurisdiction and venue for such review are vested in, the Superior Court, Appellate Division.

1. An individual has the right to appeal a final agency decision within 45 days to the New Jersey Superior Court, Appellate Division, Richard J. Hughes Justice Complex, PO Box 006, Trenton, NJ 08625-0006.

(a)

DIVISION OF REVENUE AND ENTERPRISE SERVICES

Business Certification for Lesbian, Gay, Bisexual, Transgender, Queer, Questioning+ (LGBTQ+) Businesses

Adopted New Rules: N.J.A.C. 17:47

Proposed: November 7, 2022, at 54 N.J.R. 2074(a).

Adopted: February 3, 2023, by Elizabeth Muoio, State Treasurer.

Filed: February 8, 2023, as R.2023 d.033, **without change**.

Authority: Executive Order No. 295 (2022); N.J.S.A 10:5-36.g and o.

Effective Date: March 6, 2023.

Expiration Date: March 6, 2030.

Summary of Public Comment and Agency Response:

The official comment period ended January 6, 2023. **No comments were received.**

Federal Standards Statement

There are no Federal standards or requirements applicable to the adopted new rules. As a result, an explanation or analysis of the adopted new rules, pursuant to Executive Order No. 27 (1994) is not required.

Full text of the adopted new rules follows:

CHAPTER 47

BUSINESS CERTIFICATION FOR LESBIAN, GAY, BISEXUAL, TRANSGENDER, QUEER, QUESTIONING+ (LGBTQ+) BUSINESSES

SUBCHAPTER 1. CERTIFICATION

17:47-1.1 Application and scope

(a) This subchapter is promulgated by the Department of the Treasury to establish the procedures for the certification program set forth and directed by Executive Order No. 295 (2022) (EO 295). EO 295 calls for the establishment of a procedure for the certification of LGBTQ+ businesses.

(b) Applications and questions regarding certification of LGBTQ+ businesses should be addressed to the New Jersey Division of Revenue and Enterprise Services, at the contact address listed on its website at www.nj.gov/njbgs.

(c) EO 295 applies to every LGBTQ+ business that wishes to participate in the certification program.

17:47-1.2 Definitions

The following words and terms, as used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

“Appeal” means a timely filed written challenge to a denial or revocation of a certification as an LGBTQ+ business.

“Applicant” means a business that applies for certification as an LGBTQ+ business pursuant to this chapter.

“Business” means an entity organized for profit including, but not limited to, an individual or individuals, sole proprietorship, partnership, limited liability company, corporation, or joint venture.

“Certification” means a determination by the Division that an applicant has met the standards for certification as an LGBTQ+ business, per these procedures.

“Control and managerial and operational control” mean authority over the affairs of a business, including, but not limited to, capital investment, property acquisition, employee hiring, contract negotiations, legal matters, officer and director selection, operating responsibility, financial transactions, and the rights of other shareholders or joint partners. Control shall not include absentee ownership. Control shall be deemed not to exist where an owner does not identify as LGBTQ+. Additionally, control shall not be deemed to exist where someone, other than someone who identifies as LGBTQ+, is disproportionately responsible for the daily operation of a business, or for policy and contractual decisions.

“Day” or “business day” means any weekday, excluding Saturdays, Sundays, State or Federal legal holidays, and State-mandated furlough days.

“Denial” means an administrative decision by the Division to reject an application for reasons, such as the submission being incomplete, inaccurate, or failing to meet the eligibility standard for an LGBTQ+ business.

“Department” means the Department of the Treasury.

“Designated hearing officer” means a State of New Jersey, Department of the Treasury employee designated by the State Treasurer to hear cases involving an appeal of a denial of a certification or a challenge to a certification, pursuant to this chapter, and to render decisions on those appeals and challenges.

“Director” means the head of the Division of Revenue and Enterprise Services, in the Department of the Treasury.

“Division” means the Division of Revenue and Enterprise Services, in the Department of the Treasury, which has been allocated the authority by the State Treasurer to certify businesses pursuant to this chapter.

“EO 295” means Executive Order No. 295 (2022), issued by Governor Murphy on May 3, 2022.

“Filed” means received by the Director or a Division representative.

“Joint venture” means a business undertaking between two or more entities who share risk and responsibility for a specific project while otherwise retaining their distinct identities.

“LGBTQ+” means a person who identifies as lesbian, gay, bisexual, transgender, queer, questioning +, or who otherwise does not identify as heterosexual or cisgender.

“LGBTQ+ business” means a business, which is:

1. A sole proprietorship, owned and controlled by a person who identifies as LGBTQ+;

2. A partnership or joint venture, owned and controlled by individuals who identify as LGBTQ+ in which at least 51 percent of the ownership interest is held by individuals who identify as LGBTQ+, and the management and daily business operations of which are controlled by one or more of the individuals who identify as LGBTQ+ who own it; or

3. A corporation or other entity, whose management and daily business operations are controlled by one or more individuals who identify as LGBTQ+ who own it, and which is at least 51 percent owned by one or more individuals who identify as LGBTQ+ or, if stock is issued, at least 51 percent of the stock is owned by one or more individuals who identify as LGBTQ+.

“Selective Assistance Vendor Information (SAVI)” means the database in which the Division maintains a public listing of small businesses, veteran’s businesses, disabled veteran-owned businesses, minority, and women businesses and following the promulgation of this subchapter, LGBTQ+ businesses.

“State contracting agency” or “contracting agency” means any board, commission, committee, authority, division, college, university, department, or agency of the State that possesses the legal authority to enter into, or award, contracts for goods and services or construction contracts. A list of State contracting agencies shall be maintained at www.newjerseybusiness.gov and updated, as necessary, to reflect the addition or elimination of agencies.

17:47-1.3 Standards of certification for LGBTQ+ businesses

(a) A business may be eligible to be certified as an LGBTQ+ business, as set forth in this section.