

Proposed Changes to Adult-Use Cannabis Rules

As required by the CREAMM Act, the rules regulating the adult-use cannabis market in New Jersey initially adopted in August 2021 must be adopted permanently by the Cannabis Regulatory Commission. Highlights of the proposed revisions and new rules are outlined below.

The proposed rules authorize all six classes of cannabis business, adding three new license classes:

- ✦ Cultivators
- ✦ Manufacturers
- ✦ *Wholesalers**
- ✦ Retailers
- ✦ *Distributors**
- ✦ *Delivery services**

**Newly proposed license classes.*

After the public comment period closes on September 30, 2022, the NJ-CRC will compile and respond to the comments in aggregate. The Commission is targeting a date for adoption sometime in or before February 2023. The proposed changes will be effective upon filing with the Office of Administrative Law.

The proposed changes to the rules include:

- ✦ New regulations regarding wholesalers (Subchapter 12), distributors (Subchapter 13), and delivery businesses (Subchapter 15) have been added (see page 3 of this document).
- ✦ To ensure stable revenue collections for social equity investments, rates for the Social Equity Excise Fees (Subchapter 3) are established and require notification from the Commission in November for the next year's rate.
- ✦ The rules require license-holders to try to hire individuals living in Economically Disadvantaged areas or with past marijuana convictions. An amendment to N.J.A.C. 17:30-9.4(e) expands this requirement to the recruiting of vendor-contractors and provides a description of a "good faith effort".
- ✦ The municipal authority subchapter includes technical edits, and additions to N.J.A.C. 17:30-5.1(i) provide examples of behaviors that would violate the Local Government Ethics Law.
- ✦ N.J.A.C. 17:30-14.3(i) now requires cannabis retailers to provide information on the safe use of cannabis products to all consumers.

✦ Technical edits made for clarity:

- The definition of “Billboard” was amended to clarify advertisement placement requirements
- New language includes unpaid interns in the definition of an employee.
- The definition of “Financial Source” was amended to clarify what counts as an “ownership interest.”
- The definition of “license applicant” includes those with pending applications.
- The definition of “officer” has been expanded to provide additional examples of types of officers in a business.
- The definition of “owner” has been expanded to clarify ownership interest for nonprofit entities, trusts and qualified institutional investors.
- “Premises” and “physical plant” have been further defined so that areas such as bathrooms are not included as part of the consideration of the 2,500 sq. ft cap for microbusinesses.
- A definition for “cannabis wholesaler” as a business or organization owned and controlled by a license holder who holds a Class 3 Cannabis Wholesaler license issued by the Commission was added.

✦ Additional language to N.J.A.C. 17:30-11.5(c) provides examples of solid cannabis concentrate and changes the cannabinoid concentration variance under 17:30-11.5(d)(3)(i) from 5% to 10% for manufacturing.

✦ There is clarification in N.J.A.C. 17:30-14.3(d) on equivalency standards for the statutorily required maximum sale of 1 oz for all cannabis product types.

✦ Additional language to N.J.A.C. 17:30-14.5(a) requires retailers, manufacturers, and wholesalers to keep more detailed records, including information on the date of purchase and delivery sale, the cannabis items purchased or sold, and the purchasing or selling entity.

✦ The home delivery section in N.J.A.C. 17:30-14.8 has been amended to add Class 6 delivery services.

✦ N.J.A.C. 17:30-16.2(d) has been amended to clarify that a cannabis cultivator can package unusable and usable cannabis for the purpose of manufacturing.

✦ In N.J.A.C. 17:30-16.2(f)(1)(i) the logo size restriction and the quantity of logo restrictions have been removed.

✦ Updates to N.J.A.C. 17:30-16.3(a) and 16.3(b) clarify that the required disclosure information may be printed directly on the package in addition to on a label.

✦ The establishment of a universal symbol is reflected in N.J.A.C. 17:30-16.6.

✦ The addition of N.J.A.C. 17:30-17.2(d)(2) clarifies that there are no hour restrictions on online advertising but adds hourly restrictions for streaming services.

- ✦ A new classification of violations section – to provide more detailed penalty guidelines – and a suggested penalty matrix for consideration has been added to N.J.A.C. 17:30-20.7.

An overview of what each license allows a business to do:

- ✦ **Class 3 - Wholesalers can:**

- purchase usable cannabis and cannabis products from another cannabis wholesaler, cultivator, or manufacturer for the purpose of resale to another wholesaler, manufacturer, or retailer;
- store/warehouse cannabis;
- transport usable cannabis and cannabis products to a wholesaler, manufacturer, or retailer.

- ✦ **Class 3 - Wholesalers cannot**

- cultivate or package cannabis;
- produce/manufacture cannabis products;
- transport, transfer, or sell cannabis or cannabis products, paraphernalia to consumers.

- ✦ **Class 4 - Distributors can**

- transport unusable and usable cannabis between cultivators and manufacturers;
- transport usable cannabis and cannabis products between other cannabis establishments;
- possess and engage in temporary storage of unusable and usable cannabis and cannabis products as necessary to carry out transportation activities.

- ✦ **Class 4 - Distributors cannot**

- cultivate, manufacture, or package cannabis or cannabis products;
- sell cannabis, cannabis products, or paraphernalia to consumers;
- purchase or resell cannabis or cannabis products.

- ✦ **Class 6 - Delivery services can**

- purchase or otherwise obtain cannabis items, cannabis paraphernalia, and related supplies from a cannabis retailer after receiving a purchase order from a consumer and presenting it to the cannabis retailer;
- transport usable cannabis and cannabis products and paraphernalia;
- deliver usable cannabis, cannabis products and paraphernalia to a consumer;
- return undelivered usable cannabis, cannabis products and paraphernalia back to its originating cannabis retailer.

- ✦ **Class 6 - Delivery services cannot**

- cultivate, package, manufacture cannabis or cannabis products;
- transport, transfer or sell cannabis, cannabis products, or paraphernalia to cannabis businesses;
- store any cannabis or cannabis products at the licensee's administrative office.