

at 49 U.S.C. § 5329(e) and (k) for State safety oversight of rail fixed guideway public transportation systems. The Office of Fixed Guideway Oversight in the New Jersey Department of Transportation is responsible for the administration of this chapter.

16:53E-1.4 Incorporation by reference

The Department incorporates herein by reference 49 CFR Part 674, State Safety Oversight.

SUBCHAPTER 3. SAFETY PLAN

16:53E-3.1 Safety plan requirements

(a) (No change.)

(b) Every transit agency shall develop and implement a written safety plan that complies with the requirements of the New Jersey Department of Transportation Safety Oversight Program Standard (NJDOT SSOPS) for each fixed guideway system it operates. Copies of the NJDOT SSOPS may be obtained on the Department’s website at: <http://www.state.nj.us/transportation> or in person at:

New Jersey Department of Transportation
Office of Fixed Guideway Oversight
1035 Parkway Avenue
PO Box 600
Trenton, New Jersey 08625-0600
Phone: 609-963-2090
or by email at:
NJOFGSSO@dot.nj.gov.

16:53E-3.2 Department inspections

(a) Pursuant to 49 U.S.C. § 5329(k), every transit agency shall provide access to the rail fixed guideway public transportation system and agency. The Department shall conduct inspections of the rail fixed guideway public transportation system and agency with and without advance notice. Inspections include, but are not limited to, the infrastructure, property leading to the infrastructure, equipment, records, data, personnel, and other deemed information, structure, or persons necessary for the safety inspection.

1. Ajay Bhatt
2. Angelo Botteon
3. Anhiella Rosa Cordero
4. Annmarie Shafer
5. Barbara Ziobro
6. Barry Bittenmaster
7. Barry Trog, Resident
8. Bernard Fleitman
9. Brandon Creel
10. Brenna Bobrove
11. Briana Orso
12. Bruce Clough
13. Cameron Mooney, SCCAM—
Shasta/Siskiyou/Lassen Counties Against
Marijuana—A Drug Free Coalition
14. Carlos Betetta, Fog Houze
15. Carolyn Atlak
16. Cassara Grasso, Happy Daze Boutique
LLC
17. Charlene Romano
18. Charles Ade, Private citizen of NJ
19. Chelbi
20. Cheryl Fitzer—Attas, ClinMed LLC
21. Chirali Patel
22. Chris Cook
23. Chris Green
24. Chris Hasch
25. Christian Guzeman
26. Christina Dominguez
27. Christopher Jennings, Cannabis
industry
28. Corinne Gasper, Jennifers
Messengers/Smart Approaches to Marijuana

29. Dave Jenkins
30. David Barsky
31. David Feder, Weed Law, LLC
32. David Peters
33. Dean Acquaviva
34. Deborah Krzewick
35. Debra L. Wentz, PhD, New Jersey
Association of Mental Health and Addiction
Agencies, Inc. (NJAMHAA)
36. Demiera Lockhart
37. Diane Sorokac
38. Diane Litterer, New Jersey Prevention
Network
39. Doreen Camardi, NJ resident
40. Edward Hayes, Jr, Retired Police
Officer
41. Eleni Lyssikatos, Supporter
42. Emily Och
43. Emmett Sheehan,
44. Eric Silverman,
45. Ericka P,
46. Erin Capuano, Medical Marijuana user
47. Ernesto Botteon
48. Ethan Werner
49. Felicia Stoler, Cannabis for Better
Health Foundation
50. Frank Bradley
51. Fred Cacace, FinTech Provider for
Cannabis Industry, Advocate for Social Equity
in Cannabis, New Jersey Native & Former
Educator
52. G. Weg
53. Gary Wojcik, Consumer

54. Gene Truncellito
55. Geoffrey Lanza
56. Glenn Matthews, Ayr
57. Haytham Elgawly, Xena NJ LLC
58. Isabel Carotenuto, Gingerbread Kidz
LLC
59. J French,
60. J. Bowman
61. J. Brosnan
62. Jacqueline Ferraro, Co-Founder and
Managing Director of the Cannabis Advisory
Group
63. Jaimee Hamm, Hamm & Chaz
Dispensary
64. James Barrett, CannPowerment
65. Jamie Bradshaw
66. Jared Rutherford,
67. Jason Frankovich, StB International
68. Jason Sporer,
69. Jay Russel
70. Jeff Highsmith
71. Jeff King
72. Jennifer Keil
73. Jennifer Yates, One Chance to Grow
Up
74. Jill Levey
75. Joan Vawter
76. Jocelyn Fenton, BraBoca LLC
77. Jocelynn Tice
78. Joe
79. Jon Cohn, Agronomed Management
LLC—Vendor Contractor
80. Jon Lehberger

(b) Access to entries shall be provided to the Department by the fixed guideway public transportation agency, which may include, but is not limited to, keys, codes, data cards, or remotes.

TREASURY—GENERAL

(a)

NEW JERSEY CANNABIS REGULATORY COMMISSION

Personal Use Cannabis Rules

Adopted Amendments: N.J.A.C. 17:30-1.2, 2.1, 5.1, 7.17, 9.5, and 9.8

Adopted New Rules: N.J.A.C. 17:30-14.9 and 14.10

Proposed: January 17, 2023, at 55 N.J.R. 100(a).

Adopted: January 17, 2024, by the New Jersey Cannabis Regulatory Commission, Dianna Houenou, Chair.

Filed: January 17, 2024, as R.2024 d.010, with non-substantial changes not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

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

Effective Date: February 20, 2024.

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 March 18, 2023. The numbers in parenthesis after each comment correspond to the commenter(s) listed below.

- 81. Jordan Washington
- 82. Jose Diaz, NJMMP
- 83. Joseph Nygard, NJ Green Scene LLC
- 84. Joshua Dubnick
- 85. Juan Garcia
- 86. Julissa Bonilla
- 87. Justin, Resident
- 88. Karen Blumenfeld, GASP
- 89. Karen Bonner
- 90. Kay
- 91. Kerry Mentzer
- 92. Kiliaen Strong, Cannabis Education and Research Institute
- 93. Kim
- 94. Kyle Eubank
- 95. LaQue Davis, Hazey Gardens LLC
- 96. Laura Babuin Zack
- 97. Laura Berness, Psychologist
- 98. Laura Trujillo
- 99. Leah Tovar
- 100. Leo Reché
- 101. Leomal Hidalgo
- 102. Leslie DiLuigi
- 103. Linda Moran,
- 104. Lorraine M Donayre
- 105. Madeline Grant, Bud 2 Bloom LLC
- 106. Malissa Arnold, Prevention Coalition of Mercer County
- 107. Marc A Pollack, Founder—Attis NJ
- 108. Mark Barnes and Chris Beyer, CannBSafe
- 109. Mark Wong
- 110. Mary A Botteon
- 111. Maryann Roper
- 112. Matha Figaro
- 113. Matthew
- 114. Matthew Group, 1130 Enterprises LLC
- 115. Melissa Tasse, Parent and Substance Use Prevention Advocate
- 116. Michael C. McQueeney, New Jersey Cannabis Trade Association
- 117. Michael Lazarus
- 118. Michael P. Brescia
- 119. Mike McCoy
- 120. Natalie B
- 121. NJCBA Consumption Area Policy Task Force
- 122. Njsmokersclub the voice of New Jersey
- 123. Not in favor of proposal
- 124. Not in favor of this proposal, Property Tax Payer
- 125. Pamela Lorsbach
- 126. Patrick Fermin

- 127. Patty
 - 128. Patty Peterson
 - 129. Paul David Roman, President, New Jersey Local Boards of Health Association
 - 130. Paula Weinberg, Arcane Jane LLC
 - 131. Peter Szlasa
 - 132. Private
 - 133. Raisa Boroday
 - 134. Ramie Hansen
 - 135. Rashid Taylor, Conditional License holder
 - 136. Reva Kaufman, Be well family practice
 - 137. Rich James,
 - 138. Richard L Gehl
 - 139. Robert Donaldson,
 - 140. Ronell Lauray
 - 141. Ross Brown,
 - 142. Rusty Shackelford
 - 143. Ruth Beyer,
 - 144. Ryan Schaffer,
 - 145. Ryan Woods,
 - 146. Sandra Pohlman
 - 147. Sean Mack, Pashman Stein Walder Hayden, PC
 - 148. Steve Cassidy, Daylite Cannabis LLC: Owner
 - 149. Steve Newton
 - 150. Steve Schaeffer
 - 151. Stewart Speck
 - 152. Susan Sakosits
 - 153. Susana Aguirre
 - 154. Taiji Marino
 - 155. Thomas Pluck
 - 156. Vanessa Peters
 - 157. Virginia Sutton
 - 158. Joshua Alb, Cannademix
- The following commenters are in support of Cannademix’s public comments:
- 159. Alexis Rivera
 - 160. Alfredo Prasaguet
 - 161. Ali Shehadeh
 - 162. Allison Correia
 - 163. Ambra Melendez
 - 164. Ash Pavesio
 - 165. Brian Arya
 - 166. Bruce Armistead
 - 167. Carlos Bruno
 - 168. Cassara Grasso
 - 169. Catherine Reyes
 - 170. Chelsea Duffy
 - 171. Chris Broderick
 - 172. Connie Pascal
 - 173. Danielle Downs
 - 174. David Silva

- 175. Donna Pixton-Hacker
- 176. Dorothy Loffredo
- 177. Eric Quispe
- 178. Ericka Padilla
- 179. Erika Rojas
- 180. Gaetano Lardieri
- 181. Haider Rizvi
- 182. Hope Wiseman
- 183. Jack Payne
- 184. Jack Trimble
- 185. Jair Zevallos
- 186. James Warren
- 187. Jamie Nash
- 188. Jamice Hamm
- 189. Jason Dauphine
- 190. Jason Thomas
- 191. Jeric Duan
- 192. Jesse Jacobs
- 193. Jessica Fleming
- 194. John DeMaio
- 195. Joshua Belle
- 196. June Woods
- 197. Kamera Steele
- 198. Katharine Jaworski
- 199. Kelly Smack
- 200. Krista Lisenco
- 201. Leena Trinidad
- 202. Leo Ashe
- 203. Malika Randolph
- 204. Maria Astorga
- 205. Mario Ramos
- 206. Mark Jenkins
- 207. Martin Anico
- 208. Michael Moharan
- 209. Michael Quezada
- 210. Michelle Barbieri
- 211. Natalie Hernandez
- 212. Oluwatosin Ajayi
- 213. Patricia Picinich
- 214. Phillip Clermont
- 215. Rafael Perez
- 216. Sarah Russell
- 217. Shannon Farrell
- 218. Sierra Torres
- 219. Sindy Fredrick
- 220. Sodelba Alfaro
- 221. Steven Shaiman
- 222. Stuart Zakim
- 223. Tahir Johnson
- 224. Timothy Auyeung
- 225. Victoria Tahhan
- 226. Vimadalal Vimadalal
- 227. Zachary Klein

General

- 1. COMMENT: Several commenters stated they were in support of the legalization of cannabis and/or in support of the regulations surrounding consumption areas. (26, 27, 33, 51, 59, 61, 69, 82, 90, 94, 104, 117, 126, and 130)
 RESPONSE: The Commission acknowledges the commenters’ support for the laws and rules.
- 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. (12, 34, 43, 50, 53, 78, 85, 93, 113, 119, 132, 134, 146, and 154)
- 3. COMMENT: One commenter strongly encourages the Commission to review the regulations surrounding the addition of edibles and

- beverages before finalizing consumption area regulations and make the necessary changes to keep pace with the growth of the industry. (112)
 RESPONSE TO COMMENTS 2 AND 3: As these comments fall beyond the scope of this rulemaking, the Commission acknowledges the commenters’ statements, and no further response is necessary.
- 4. COMMENT: One commenter states that the “Commission also needs to swiftly address why all of NJ’s dispensaries are multi-state corporate endeavors, likely due to difficult application processes that smaller businesses can’t afford to take risks on. Local new businesses need to be built for this market to thrive and to have local buy-in. Why should I support some out of state business who wants to profit off of my town?” (155)

RESPONSE: This comment is beyond the scope of this rulemaking because this rulemaking applies to the Commission's proposed rules on consumption areas, and no further response is necessary.

Against Legalization of Cannabis and/or Consumption Areas

5. COMMENT: Several commenters are generally against the legalization of cannabis and/or consumption areas because of public safety concerns. (2, 4, 5, 7, 13, 15, 22, 24, 28, 29, 37, 39, 40, 41, 44, 47, 52, 58, 60, 70, 72, 73, 74, 75, 80, 89, 96, 97, 99, 102, 103, 109, 110, 111, 115, 120, 123, 124, 125, 128, 131, 133, 136, 139, 143, 144, 150, 151, 152, 153, and 156)

6. COMMENT: One commenter objects to the addition of a cannabis consumption area and objects to allowing for on-premises consumption of cannabis. The commenter states that they do not agree that consumption areas will have a beneficial social impact or would promote general public safety; rather, it will create a space for people experiencing homelessness to use cannabis and would add to their negative lifestyle and behaviors, thereby negatively impacting the general public safety. The commenter objects to the proposed rules in that they provide for consumption areas in tourist enclaves and commercial lodging facilities, which also will not have a positive impact on social equity and would become a breeding ground for public safety problems. The commenter states that the creation of cannabis consumption areas will have a negative impact on the enforcement of drugged driving and other public health consequences associated with marijuana use and should be taken into consideration by the Commission. The commenter states that cannabis consumption areas lead to a demonstrable increase in small airborne particulates that are associated with harm and states that there are no practical (monetary, nose-based) interventions to lower these levels to an acceptable OSHA level. The commenter argues that in 2023, we should be increasing worker protections from smoke rather than creating workspaces that are unsafe and states that the proposed rules do not create a positive impact in social impact, equity, or social justice, but instead creates a negative impact based on fact and should be dismissed as bad science and a detriment to the general community and those individuals whom the proposed rules are supposed to benefit. (129)

7. COMMENT: One commenter states that consumption areas "will contribute to users circumventing [N.J.S.A.] 39:4-51a which prohibits the consumption of pot while driving" because the users are not consuming while driving but consuming just before driving. The commenter states that driving while under the effects of marijuana has become an increasing highway safety issue in the country, and is the most frequently detected drug, aside from alcohol, in drivers involved in motor vehicle accidents. The commenter argues that first-time users at consumption areas will be especially dangerous on the roads because of their lack of experience with cannabis, and consumption area operators will not be able to identify which consumers are first-time users. The commenter states that while the proposed regulations are focused on how to keep cannabis consumers safe, the regulations are silent on the repercussions to cannabis users from injuring others. (54)

8. COMMENT: One commenter states that allowing for the creation of consumption areas would go beyond the scope of the public referendum from 2020 in violation of N.J.S.A. 19:3-6, since the question did not mention "use" that would apply to consumption areas but rather focused only on sales. (88)

9. COMMENT: One commenter states that the proposed amendments' reference to the New Jersey 2020 Cannabis referendum results is misleading and misplaced. (54)

RESPONSE TO COMMENTS 5, 6, 7, 8, AND 9: 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.) ("CREAMMA" or "CREAMM Act"). Additionally, the New Jersey Legislature authorized cannabis consumption areas through N.J.S.A. 24:6I-21. Importantly, existing statutes prohibiting driving under the influence remain unaffected by the proposed rulemaking. The Commission discourages cannabis misuse and driving while under the influence of cannabis items. Regarding indoor air quality, the New Jersey Legislature has deemed indoor and outdoor consumption areas not to be in violation of the New Jersey Smoke-Free

Air Act, as long as there is compliance with the ventilation requirements applicable to cigar lounges, pursuant to N.J.S.A. 24:6I-21.f(1)(a).

Federal Law

10. COMMENT: One commenter stated that the proposed rules should also acknowledge that the establishment of consumption areas will conflict with Federal law, and that information needs to be shared more readily with the public. (35)

11. COMMENT: One commenter stated that before approving public consumption sites, the Commission should consider guidance by the Justice Department relating to preventing driving under the influence of drugs and exacerbation of other adverse public health consequences associated with marijuana use. (35)

RESPONSE TO COMMENTS 10 AND 11: The Commission provided the necessary "Federal Standards Analysis" in its notice of proposal, 55 N.J.R. 100(a), as required at N.J.A.C. 1:30-5.1(c)4, and addressed whether the rules contained standards or requirements that exceed standards or requirements imposed by Federal law.

Home Grow

12. COMMENT: Two commenters requested that the Commission legalize home grow of cannabis for both medical patients and personal use. (142 and 149)

RESPONSE: The Commission acknowledges the commenters' request for legalization of home grow. This rulemaking addresses the Commission's authorization of consumption areas. Thus, this request is beyond the scope of this rulemaking.

Smoke Free Air Act

13. COMMENT: One commenter states that the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act narrowly defines a cannabis consumption area as one operated by a licensed cannabis retailer or permit holder for dispensing medicinal cannabis. The commenter states that the proposed regulations do not explain how the Commission decided to shift from regulating cannabis consumption areas in licensed locations as authorized pursuant to CREAMMA to permitting it in non-licensed locations, or how that would be within the Commission's authority. To the extent the Commission relies on N.J.S.A. 29:4-5 and the Smoke-Free Air Act, N.J.S.A. 26:3D-55, those laws have different purposes, utilizing different definitions, predated the legalization of cannabis, and should not be utilized to bring guest rooms under the purview of these regulations. The commenter states that if cannabis smoking is to be allowed in guest rooms, then the Legislature must first amend the Smoke-Free Air Act to explicitly allow for cannabis to be consumed in a guest room. (54)

14. COMMENT: One commenter states that these harms, specifically, the increase in small airborne particulates and the lack of practical interventions to lower these levels, are what the New Jersey Smoke Free Air Act is meant to prevent, and the Commission was informed of these harms in February 2022 with no meaningful response. (129)

15. COMMENT: One commenter states that the regulations and CREAMM Act, in allowing for consumption areas, violates the New Jersey Smoke-Free Air Act (NJSFAA). The NJSFAA bans any product that can be smoked/vaped in indoor public areas unless exempted, and none of the exemptions apply here, so the regulations should be withdrawn and the language in the CREAMM Act pertaining to lounges should be nullified. The commenter states that the regulations only refer to the NJSFAA as it relates to ventilation, but omits references to the NJSFAA's specific exemptions for smoking and that marijuana lounges are not located in the exemptions. The commenter states that the regulations and the CREAMM Act conflict with the NJSFAA. The commenter states that there is currently a proposed bill to create an exemption to the NJSFAA for marijuana lounges, which indicates that marijuana lounges are currently not permissible pursuant to the NJSFAA. The commenter states that NJSFAA does not permit smoking in indoor public spaces if second-hand smoke permeates into an adjacent neighboring building or smoke-free public place or workplace. Allowing for consumption areas may negatively impact the health of residents of nearby multi-unit housing complexes if the smoke migrates to their units. (88)

16. COMMENT: One commenter is very concerned about the proposed Cannabis Consumption Areas (CCAs). The commenter supports the decriminalization of cannabis but urges the CRC to be proactive in creating guardrails for this industry to reduce future regrets. The commenter states, “[r]ather than create environments and business practices that we know will result in harmful consequences as we have experienced with the tobacco and alcohol industry, New Jersey can do better this time in creating appropriate restrictions, clear guidance and strong enforcement to policies that should always start with a public health and safety focus.” Additionally, the commenter states “[s]imilar to tobacco smoke, marijuana smoke poses significant risks to health.” According to the U.S. Surgeon General, “there is no risk-free level of secondhand smoke, and even brief exposure can cause immediate harm ... even separately enclosed, separately exhausted, negative-pressure smoking rooms do not keep secondhand smoke from spilling into adjacent areas.” The commenter argues that “[i]t is not possible for indoor CCAs’ ventilation systems to prevent harms from second-hand smoke.” The commenter urges the CRC to “require that a smoke-free indoor environment is maintained.” (38)

17. COMMENT: One commenter states “I don’t consume nicotine but cigarettes, cigars and other tobacco products should be allowed due to the exhaust systems removing the secondhand smoke and byproducts. This policy would also reduce the amount of patrons exiting and reentering the premises multiple times.” (68)

RESPONSE TO COMMENTS 13, 14, 15, 16, AND 17: The New Jersey Legislature authorized cannabis consumption areas through the passage of N.J.S.A. 24:6I-21. N.J.S.A. 24:6I-21.f(1)(a) states that medical or personal use cannabis may be smoked, vaped, or aerosolized in an indoor cannabis consumption area, if the consumption area complies “with all ventilation requirements applicable to cigar lounges, as that term is defined in section 3 of P.L.2005, c.383 (C.26:3D-57), in order to permit indoor smoking, vaping, or aerosolizing that is the equivalent of smoking tobacco not in violation of the “New Jersey Smoke-Free Air Act,” P.L.2005, c.383 (C.26:3D-55 et seq.).” Additionally, the New Jersey Legislature, through N.J.S.A. 24:6I-21.f(2), authorized “smoking, vaping, or aerosolizing of medical cannabis or personal use cannabis items” in an outdoor cannabis consumption area as long as it “does not result in migration, seepage, or recirculation of smoke or other exhaled material to any indoor public place or workplace as those terms are defined in section 3 of P.L.2005, c.383 (C.26:3D-57).” Thus, the New Jersey Legislature has deemed indoor and outdoor consumption areas not to be in violation of the New Jersey Smoke-Free Air Act, as long as there is compliance with the ventilation requirements. Pursuant to proposed N.J.A.C. 17:30-14.10(a)3, the Commission requires that indoor consumption areas “comply with all ventilation requirements applicable to cigar lounges, as that term is defined at N.J.S.A. 26:3D-57,” and pursuant to proposed N.J.A.C. 17:30-14.10(c), the Commission requires that “any smoking, vaping, or aerosolizing of medical cannabis or cannabis items that occurs in the area does not result in migration, seepage, or recirculation of smoke or other exhaled material to any indoor public place or workplace as those terms are defined at N.J.S.A. 26:3D-57.” Regarding guest rooms, the Commission’s proposed regulation at N.J.A.C. 17:30-2.1 only permits smoking, vaping, or aerosolizing cannabis items in “a guest room at a hotel, motel, or other lodging establishment, as defined at N.J.S.A. 29:4-5, that permits such consumption, smoking, vaping, or aerosolizing,” consistent with the statutory requirements. However, the CREAMM Act prevents the consumption of tobacco in a consumption area pursuant to N.J.S.A. 24:6I-21.g(2). Thus, no changes will be made upon adoption in response to the comments.

Request for Delay of Rulemaking

18. COMMENT: Two commenters request the Commission delay the rollout of public consumption licenses for several concerns:

1. There is insufficient public safety because there is no roadside breath or blood test for being under the influence of cannabis;

2. The State needs to determine an equivalent of cannabis intoxication to blood alcohol level (BAC) to establish a minimal safety standard. Statewide training has not been established, and without it, neither have standards been set for what “visible signs of intoxication” are. Without uniform training and standards for intoxication, safety cannot be insured;

3. The State should prioritize safe usage before allowing this license to roll out. There is not a unified, State campaign about driving under the influence to move forward on the public consumption of cannabis. N.J.A.C. 17:30-14.10 states, “A medical cannabis dispensary or cannabis retailer operating a cannabis consumption area shall not sell or allow the consumption of any alcohol ... or tobacco or nicotine products on the premises.” This is very important as the interaction between alcohol and cannabis products can lead to much more harmful effects on the body. Special consideration and training to enforce this safety measure will need to take place;

4. The establishment of cannabis consumption areas will conflict with Federal Law. This information needs to be shared more readily with the public as many New Jersey residents do not understand the possible ramifications of cannabis being illegal Federally. In addition, more consideration should be given to the Justice Department’s guidance when it states, “Preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use.” This should be one of the biggest considerations before approving public consumption sites;

5. There are not enough resources to address cannabis use disorder with the existing licenses. Providing more social situations in public where one can get high is “enticing new users.” This leads to increases in the already large need the State has for cannabis treatment, especially for youth; and

6. There is no mention of oversight or collection of data on possible ramifications of the rollout of this license, such as traffic issues, violence between patrons, property damage, or data on injury, crashes, or traffic incidents. The commenter concludes by encouraging enforcing that no one under 21 years of age can enter a consumption area and maintaining distance for schools, child daycare facilities, playgrounds, and places of worship. (32 and 106)

19. COMMENT: One commenter states that the Commission should postpone the regulations until the Commission conducts research and convenes a task force to investigate and make findings on the effects of cannabis on an individual’s ability to drive; the findings should be reported to the Legislature with recommendations on how to protect the public from cannabis users who leave consumption areas while under the influence of cannabis. (54)

20. COMMENT: One commenter states that consumption areas should not be permitted in any retail cannabis dispensary for the first full year of operation. Following the completion of one continuous year of operation, an application may then be filed. This permits the municipality to monitor the operation before an expansion is permitted. Consumption areas should not be permitted in retail cannabis dispensaries that are located within 1,000 feet from any residence, playground, school, church, or park. Person(s) departing the consumption areas and proceeding to either walk, bicycle, or operate a motor vehicle while under the influence of an intoxicating substance present a much higher public safety risk to the community and these locations can present a higher risk to the community. In addition to the approval of the municipality for a consumption area, the chief of police of the municipality where the consumption area is proposed shall be consulted for approval. The chief of police may approve or deny the application. In any event, the chief of police must be consulted and his or her written opinion must be submitted to the municipality prior to any approval being considered. (6)

21. COMMENT: One commenter states that the Commission should consider utilizing a limited pilot program for consumption areas, as being done in Massachusetts, so that appropriate data can be collected and considered. (129)

RESPONSE TO COMMENTS 18, 19, 20, AND 21: The Commission’s rulemaking on consumption areas complies with its statutory requirements at N.J.S.A. 24:6I-21.a, which states, a “municipality may authorize, through the enactment of an ordinance, the operation of locally endorsed cannabis consumption areas.” This is consistent with the Commission’s proposed rule at N.J.A.C. 17:30-14.9(e)2, which states, “If the municipality denies the application for, or revoke, the municipal endorsement, the Commission shall deny or revoke the State endorsement.” Thus, the Commission’s rulemaking fulfills its statutory requirements, and a municipality has the right to delay the authorization of consumption areas if it wishes to conduct more research or convene a task force to determine the impacts on public safety. The

Commission's rulemaking prioritizes public safety initiatives by restricting access to consumption areas to registered patients or consumers who are at least 21 years of age. Additionally, the Commission requires each consumption area to provide information regarding the safe consumption of cannabis and the Commission has published its guidance on safe and responsible consumption at <https://www.nj.gov/cannabis/adult-personal/safe-responsible-consumption/>. Moreover, as stated in the response to prior comments, the Commission addressed whether the rules contained standards or requirements that exceed standards or requirements imposed by Federal law in its Federal Standards Analysis. Thus, no changes will be made upon adoption in response to the comments.

Hours of Operation

22. COMMENT: Several commenters request that the Commission allow consumption areas to extend its hours of operation. One commenter requests consumption areas stay open until 2:00 A.M. Two commenters request that consumption areas stay open until 12:00 A.M. (36, 81, 122, 137, and 140)

23. COMMENT: One commenter states that consumption area operators should have the ability to restrict hours for patients; while some consumption area operators will want to provide access to a facility for those patients under 21 years of age accompanied by a registered caregiver, some operators will want consumption areas to include events that are inappropriate for minors during specific hours. Additionally, the commenter states that consumption area operators should be given flexibility to set hours of operation for consumption area versus dispensary as they see fit based on the needs of the business and local rules and regulations. (121)

24. COMMENT: One commenter states that there is a discrepancy between consumption area hours and dispensary hours. Usually, municipalities require dispensaries to close at 10:00 P.M., while lounges are to be closed by 2:00 P.M. Will orders be able to be taken strictly at the lounge after the dispensary closes? A possible solution would be to allow all final sales to be conducted an hour prior to closing. (86)

25. COMMENT: One commenter asked for clarification regarding hours of operation and posed a hypothetical that asked what happens if a retailer "closes at 11pm and the lounge is open until 2am." The commenter suggested a solution to allow pre-sales before 11:00 P.M., which will allow the product to be securely stored until the customer arrives later. (57)

RESPONSE TO COMMENTS 22, 23, 24, AND 25: A retailer may set different operating hours for a cannabis consumption area pursuant to the rules. However, pursuant to N.J.S.A. 24:6I-21.a, "[a] municipality may authorize, through the enactment of an ordinance, the operation of locally endorsed cannabis consumption areas." This includes the consumption area's hours of operation. Thus, the Commission has determined not to prescribe hours of operation through rulemaking as that is up to each municipality, and the commenters' hypotheticals on hours of operation should be presented to the respective municipality. Finally, the Commission has determined that allowing medical patients who are under 21 years of age to enter a cannabis consumption area is prohibited by the CREAMM Act at N.J.S.A. 24:6I-21.h(2). Thus, the Commission proposed N.J.A.C. 17:30-14.10(d)10, which restricts "access to a cannabis consumption area to personnel of the medical cannabis dispensary or cannabis retailer, adults who are at least 21 years of age, and registered qualifying patients and designated caregivers who are at least 21 years of age." Finally, proposed N.J.A.C. 17:30-14.10(a)1 only requires that all cannabis consumption areas shall allow registered patients who are at least 21 years of age to consume medical cannabis, but is silent regarding hours of operation, which is up to the municipality. Thus, no changes will be made upon adoption in response to the comments.

Standalone Consumption Areas

26. COMMENT: Several commenters request that the Commission allow consumption areas to operate as their own entity separate from a dispensary. The commenters reason that the Commission will effectively create monopolies in the industry where small businesses cannot afford to compete. (1, 31, 45, 57, and 87)

27. COMMENT: One commenter states that "Permitting standalone lounges that are not associated with existing retailers should also be allowed as another license type. An additional license category can have set-asides for social equity and diversely owned businesses. It also provides license holders with an additional revenue stream by selling their products to standalone lounges." (21)

RESPONSE TO COMMENTS 26 AND 27: N.J.S.A. 24:6I-33 defines a cannabis consumption area as an area operated by a Class 5 Cannabis Retailer license holder. The Commission has interpreted N.J.S.A. N.J.S.A. 24:6I-21.a(2) and (3) to mean that a consumption area endorsement must be tied to a Class 5 Cannabis Retailer license holder, which may be an expanded alternative treatment center. Thus, no changes will be made upon adoption in response to the comments.

Events and Partnerships

28. COMMENT: One commenter requests that the Commission allow "consumption areas to partner with local businesses to sell their products or to cater special events held at the consumption area to serve the customers." (76).

29. COMMENT: One commenter suggests the following amendments: permitting host paid events inside the lounge, permitting sampling of product, as well as product sales inside the lounge, and permitting free giveaways and promotions in order to keep businesses attractive and competitive. (83)

30. COMMENT: One commenter would like rules to allow for paid events in cannabis consumption areas, which would provide new revenue streams that would benefit cannabis businesses and the government. The commenter wants rules to allow for the sampling of cannabis products in the lounge to allow customers to try products first before purchasing and would provide the business with additional revenue opportunities. Additionally, the commenter requests rules to allow businesses to give away free items in lounges, so customers can try a product before buying. Finally, the commenter would like regulations to allow for special permits or licenses to sell at events, as this is another potential for revenue. (158 through 229)

31. COMMENT: One commenter states that consumption areas "should be allowed to have paid events such as puff and paint, karaoke, live bands and sports events to occur in our lounges, while still checking for IDs and serving only to adults 21+. Allowing us to give away free promotional items, will help us with our marketing and branding against our bigger competitors (MSOs)." Additionally, the commenter states that consumption areas "should be allowed to give out samples of cannabis products in consumption areas to allow customers 21+ to try new products before deciding to sell." The commenter requests that the Commission "consider special permit licenses to sell at lounge events such as manufacturers and CBD companies to promote their new products and brands. All customers will have to sign a waiver before entering the lounge as well." (95)

RESPONSE TO COMMENTS 28, 29, 30, AND 31: Licensed retailers having events in their cannabis consumption areas is allowable pursuant to this rulemaking. The Commission has determined that having paid events in consumption areas will not be prescribed by rule, but instead is up to the business and potentially the municipality to authorize by ordinance or other means. However, the age restriction for persons entering the cannabis consumption area will still apply. Regarding sampling, the Commission proposed N.J.A.C. 17:30-14.10(d)12, which prohibits the distribution of free samples because N.J.S.A. 24:6I-21.g(4)(a) prohibits retailers from engaging in multiple sales transactions if the employee "knows or reasonably should have known that the sales transaction would result in the person possessing more than the sales limit established by the commission." Authorizing free samples of cannabis items may create issues with tracking the cannabis possession limits, as well as State and local tax implications. Finally, the Commission has determined that the New Jersey Legislature has not authorized the Commission to create a "special permit license" as elaborated by the commenter. Thus, no changes will be made upon adoption.

32. COMMENT: One commenter states that the Commission should create a separate license type for temporary events that could operate outside of a medical dispensary or cannabis retailer. The temporary events license could be utilized at various social gatherings, from weddings to

concerts. These events should only be open to adults 21 and older and generally have the same regulatory structure and enforcement as consumption areas. The events must meet public health and safety standards. (62)

RESPONSE: Temporary event licenses are not allowed pursuant to statute. All cannabis consumption areas must be operated by a licensed retailer. This rulemaking concerns cannabis consumption areas, and this request is beyond the scope of that. As such, no changes will be made upon adoption.

33. COMMENT: One commenter requests that the Commission allow consumption areas to “have an Uber/Lyft pick up area.” (36)

RESPONSE: Retailers may choose to have designated rideshare areas pursuant to the rulemaking. The Commission has determined that whether to have rideshare pick up areas in consumption areas will not be prescribed by rule, but instead is up to the business and potentially the municipality to authorize by ordinance or other means.

34. COMMENT: One commenter states that “games, sporting events, music etc.” should be permitted and monitored by the local municipality. (68)

RESPONSE: Having games, sporting events, or music in a cannabis consumption area is allowable pursuant to the rulemaking. The Commission has determined that whether to have games, sporting events, and music in consumption areas will not be prescribed by rule, but instead is up to the business and potentially the municipality to authorize by ordinance or other means.

Medical Patients

35. COMMENT: One commenter states that “Medical marijuana patients should be guaranteed entrance in the event of large crowds that challenge capacity limitations. Patients should also be allowed to enter the consumption area at no cost.” (68)

RESPONSE: The Commission has determined that priority access to medical patients, as well as any fees charged to enter a consumption area is up to the business or potentially for the municipality to decide. It should be noted that the Commission protects patient access by ensuring expanded alternative treatment centers (ATCs) have sufficient access to medical cannabis available to meet the reasonably anticipated needs of registered qualifying patients.

Safe Use Information

36. COMMENT: One commenter states that the proposed rules also state operators “shall provide information regarding the safe consumption of medical cannabis or cannabis items at the point of sale to all persons who make a purchase, as well as to all persons entering the cannabis consumption area.” Yet, the commenter states that the rules do not define what this information consists of. The commenter urges the CRC to provide further detail regarding what this information should be, including the potential harms of cannabis consumption, and area resources for prevention and cessation of cannabis use. (38)

37. COMMENT: One commenter states that the proposed regulations put the responsibility to, “provide information regarding the safe consumption of medical cannabis or cannabis items at the point of sale to all persons who make a purchase, as well as to all persons entering the cannabis consumption area,” on the licensee. One commenter states that this creates a process whereby different licensees distribute different information, which could lead to significant confusion by medical patients or adult consumers. One commenter states that if the Commission develops and maintains this information, New Jersey consumers and medical patients can be reassured they are receiving the latest scientific evidence and licensees will also have more confidence in the materials they are distributing. (62)

RESPONSE TO COMMENTS 36 AND 37: The Commission’s existing rules at N.J.A.C. 17:30-14.3(i) states that “A cannabis retailer shall provide information on the safe use of cannabis items to consumers prior to each purchase, such as the information on Safe and Responsible Consumption provided on the Commission website, www.nj.gov/cannabis.” Although each retailer has the ultimate choice on the safe use information provided, the Commission has published its guidance and downloadable material on safe and responsible consumption related to driving while impaired, pregnancy and cannabis, using cannabis

with other impairing substances, and other concerns at <https://www.nj.gov/cannabis/adult-personal/safe-responsible-consumption/>. In addition to the website and regular social media messaging focused on cannabis safety and storage, the Commission is running a Statewide outdoor and digital public information campaign to educate and reinforce cannabis knowledge.

Cannabis Consumption Area Operator Liability

38. COMMENT: One commenter states that the proposed regulations fail to adequately protect victims who may be injured or killed by impaired cannabis users, and regulations fail to provide such victims with a direct liability claim against providers. The commenter states that suggested task force recommendations should include the development of a statutory framework for the civil liability of cannabis sellers and social hosts to the victims of roadway accidents caused by those using cannabis in a consumption area, and the legal standards that should control. The commenter states that the suggested standard for cannabis sellers and social host civil liability should include a rebuttable presumption that the cannabis user is impaired if the user has consumed cannabis within a set window of time. (54)

39. COMMENT: The regulations do not adequately address oversight or the collection of data on the ramifications of allowing consumption areas, including issues regarding traffic, violence between patrons, property damage, and injuries from traffic incidents. (35)

40. COMMENT: One commenter states that “while the proposed rules limit the amount of cannabis to be brought into the CCA, there appears to be no limit on other aspects that may contribute overconsumption, DUIs, neighborhood destruction and nuisances, and other public harms.” The commenter urges the CRC to: “limit how long a patron may stay, hours of operations, and “happy hours”; prohibit food to be brought in by, or delivered to, patrons; limit CCA density and placement of outlets to avoid youth focused areas of a community; prohibit patrons from operating a vehicle once leaving the CCA; and create a system to track “last use” to potentially hold businesses responsible for DUI crashes, even stronger than the practice with the alcohol industry.” (38)

41. COMMENT: One commenter states that with alcohol, there is a legal limit of two drinks to drive safely. The commenter asks, “How is a driver safety limit being determined with recreational marijuana in consumption areas? Can people buy and consume as much as they want at one sitting? Does your commission have any regulations in place for this yet? if not, what do you think the result will be?” Additionally, the commenter asks, “who is determining when it is safe for the person driving to leave the facility after their last puff? Is it up to the impaired judgement of the drugged driver and his/her friends?” The commenter asks whether a “Designated Driver agreement of some sort make sense here - or at least an incentive to encourage it?” (157)

RESPONSE TO COMMENTS 38, 39, 40, AND 41: Existing tort liability laws remain unaffected by the rulemaking. As mentioned in the responses to prior comments, the Commission rules encourage the safe use of cannabis. The Commission’s existing rules at N.J.A.C. 17:30-14.3(i) state that “A cannabis retailer shall provide information on the safe use of cannabis items to consumers prior to each purchase, such as the information on Safe and Responsible Consumption provided on the Commission website, www.nj.gov/cannabis.” The Commission has published its guidance on safe and responsible consumption at <https://www.nj.gov/cannabis/adult-personal/safe-responsible-consumption/>. Additionally, the Commission’s proposed regulation at N.J.A.C. 17:30-14.9(f)3 allows the Commission to deny or revoke a consumption area endorsement if “the premises have been operated in a manner that adversely affects the public health or the safety of qualifying patients, consumers, personnel of the medical cannabis dispensary, cannabis retailer, the general public, or the immediate neighborhood in which the consumption area is located.” However, the Commission has determined that a consumption area’s hours of operation and location is for each respective business and potentially the municipality to decide. Additionally, the Commission’s proposed rules attempt to keep roadways safe at N.J.A.C. 17:30-14.10, which states that a consumption area “[s]hall not sell or serve additional cannabis items to a consumer who displays visible signs of intoxication and shall not permit the additional use or consumption of cannabis by a consumer who displays visible signs of

intoxication.” Thus, no changes will be made upon adoption in response to the comments.

42. COMMENT: One commenter requested that the Commission mandate dispensaries to carry expanded insurance for consumption areas “since the intoxicated patron driving away ‘high’ will be very likely involved in a car/pedestrian accident/death.” (34)

RESPONSE: N.J.A.C. 17:30-7.10(b)12 requires all entities to submit “the plan by which the license applicant intends to obtain appropriate liability insurance coverage for the proposed cannabis business.” Thus, because entities are already required to obtain the appropriate insurance coverage necessary, no changes will be made upon adoption.

Cure Period

43. COMMENT: One commenter states that the regulations should provide for a cure period for consumption area operators to correct any problems or infractions noted during the license period. The commenter requests regulations, which include situations when a license is not renewed or if an infraction is found during a consumption area license period, the operator should be allowed a cure period to correct the issues. (121)

RESPONSE: The Commission will follow N.J.A.C. 17:30-20 when considering infractions during the license period. N.J.A.C. 17:30-20.4 allows a licensee to provide a corrective action plan to the Commission. Additionally, the Commission will follow N.J.A.C. 17:30-20 to issue notices of violations, as well as issue sanctions, as it deems necessary. Thus, no changes will be made upon adoption.

Miscellaneous

44. COMMENT: One commenter states “Consumption areas could be better accommodated in resorts where people are within walking distance of their hotels or in theater districts such as Morristown, Princeton, Millburn or even in malls with movie theaters where people may consume cannabis before attending a performance or going out to dinner so that there is a period of time to “sober up” before driving or, better yet, not driving at all if they’re staying at a hotel.” (84)

RESPONSE: N.J.S.A. 24:6I-21.a states, a “municipality may authorize, through the enactment of an ordinance, the operation of locally endorsed cannabis consumption areas.” Thus, the appropriate location for a consumption area is for the business and municipality to determine, and no changes will be made upon adoption.

45. COMMENT: One commenter expressed concern that individuals who are consuming products in consumption areas will be targeted by the police for tickets and asked what protections will be in place for consumers. (49)

RESPONSE: The Commission provides its consumer protection rules at N.J.A.C. 17:30-2.3. It should be noted, however, that individuals have a duty to ensure they are not impaired prior to driving a motor vehicle.

46. COMMENT: One commenter requested the Commission consider adopting, or at least reviewing, the Colorado marijuana regulations. The commenter believes that the Colorado rules are stricter than New Jersey’s. (18)

RESPONSE: When drafting the proposed rulemaking, the Commission has conducted research and reviewed other state laws and regulations. The Commission’s proposed rules on consumption areas reflect that research.

47. COMMENT: One commenter proposes for an “ATC to have an on the premise consumption for better patient/technician interaction. [S]ome products require some tutorial before usage and would benefit both the patient/adult use customer and business.” (56)

RESPONSE: N.J.S.A. 24:6I-35.a(8)(f) prohibits cannabis items from being consumed on the cannabis establishment’s premises, except as permitted in a cannabis consumption area. Cannabis consumption area staff are able to explain to patients and consumers how to use cannabis or paraphernalia without having to consume cannabis items while doing so.

48. COMMENT: One commenter stated that “regarding the indoor consumption areas, please clarify if specific requirements for ventilation systems will be put in place as these additional regulations would need to be considered when choosing locations and determining start up/operating costs.” (14)

RESPONSE: All consumption areas must comply with the ventilation requirements applicable to cigar lounges. N.J.S.A. 24:6I-21.f(1)(a) states

that medical or personal use cannabis may be smoked, vaped, or aerosolized in an indoor cannabis consumption area, if the consumption area complies with all ventilation requirements applicable to cigar lounges, as that term is defined in section 3 at P.L. 2005, c. 383 (N.J.S.A. 26:3D-57), in order to permit indoor smoking, vaping, or aerosolizing that is the equivalent of smoking tobacco not in violation of the New Jersey Smoke-Free Air Act, P.L. 2005, c. 383 (N.J.S.A. 26:3D-55 et seq.).

49. COMMENT: One commenter requests the regulations to state clearly that all cannabis consumption areas will have to comply with certain Department of Health regulations related to operation of a public venue where adult consumers will smoke cannabis and any local restrictions on storage of denatured alcohol for cleaning. (121)

RESPONSE: All permittees and licensees are required to abide by all applicable State laws and rules. It is the operator’s responsibility to comply with all applicable State or local health regulations, regardless of whether they are mentioned in this rulemaking. Thus, no changes will be made upon adoption.

50. COMMENT: One commenter states that consumption area operators should consider packaging cannabis products in smaller than normal doses considering the length of time they want customers to stay and consume cannabis and be entertained safely (for example, a single pre-roll; or less than 10 mg THC for an infused product; or, for a concentrate, as small as .03 grams or less). (121)

RESPONSE: Cannabis business licensees may package in smaller doses, as long as it packages products under the limits and requirements identified by law and rule, including, but not limited to, N.J.A.C. 17:30-11.5(d).

51. COMMENT: One commenter states that “restrictions for allowable proximity to schools and playgrounds should be set by the state. Approval of said cannabis business in municipalities should be voted on by the community at large, not a small body of often homogeneous representatives.” (91)

RESPONSE: The Commission has determined that a cannabis business’s proposed location is up to the business and municipality to determine. Thus, the Commission’s regulation at N.J.A.C. 17:30-7.10(b)7 requires an applicant to demonstrate evidence of compliance with local codes and ordinances, including the distance to the closest school, playground, park, or child daycare facility.

Subchapter 2

52. COMMENT: The Commission should remove from the proposed regulations, at N.J.A.C. 17:30-2.1(b)2, any attempts to authorize cannabis smoking, vaping, and aerosolizing in any guest rooms of hotels, motels, and other lodging establishments as beyond the Commission’s scope of authority and contrary to the State’s public policy against indoor public smoking. (54)

RESPONSE: The Commission proposed rule, at N.J.A.C. 17:30-2.1(b)2, merely allows cannabis consumption at a guest room at a hotel, motel, or other lodging establishment that permits such consumption, smoking, vaping, or aerosolizing. Thus, it is up to the respective hotel, motel, or other lodging establishment and/or municipality to decide. This is consistent with N.J.S.A. 2C:35-10.a, which states that “the smoking, vaping, or aerosolizing of a cannabis item shall be permitted in a cannabis consumption area as set forth in section 28 of P.L.2019, c.153 (C.24:6I-21), and may be permitted by the person or entity that owns or controls a hotel, motel, or other lodging establishment as defined in section 1 of P.L.1967, c.95 (C.29:4-5) in up to 20 percent of its guest rooms.” Thus, no changes will be made upon adoption.

Subchapter 5. Municipal Authority

53. COMMENT: One commenter requests, regarding N.J.A.C. 17:30-5.1, to amend subsections (n) and (o) to include that operators need the flexibility to operate retail business and consumption areas at different hours, similar to liquor retail and bar operations. Additionally, the commenter requests subsections (n) and (o) to include that once approved, a municipality cannot frivolously prohibit operation of a consumption area in the future. Finally, the commenter requests subsections (n) and (o) to include that “reasonable” pursuant to paragraph (n)2 means the municipality cannot enact more stringent distance restrictions than used for the location of retailers. (121)

54. COMMENT: One commenter asks the Commission to educate New Jersey municipalities on the importance of opting into the legal recreational cannabis market. The commenter states that despite overwhelming evidence of recreational marijuana support, many local governments choose to opt out. The commenter suggests that “the CRC could help to provide more education to municipalities; therefore, allowing more New Jersey municipalities to opt in and more license awardees to convert their conditional license and begin operating.” (105)

55. COMMENT: One commenter states that a distinction should be made between a “dispensary-on-site consumption license” and a “stand alone consumption license.” Approved dispensaries should not be required to get additional local town approval for on-site consumption associated with an approved dispensary. Towns that have approved dispensaries should not be permitted to discriminate against them or create new fees or competitive application processes for a dispensary’s on-site consumption. This will help to reduce barriers to entry for business owners who want to offer on-site consumption to their customers. Additional town approval can be a lengthy and costly process, making it difficult for business owners, especially those from disadvantaged backgrounds, to compete with established businesses. As long as the consumption area meets all the necessary safety and health requirements, it should be allowed to operate without additional approvals. It is important to note, however, that stand-alone consumption areas that are not associated with a licensed dispensary should still be subject to the additional approval process to ensure public safety. (31)

RESPONSE TO COMMENTS 53, 54, AND 55: The New Jersey Legislature clearly provides municipalities with the authority to regulate consumption areas. N.J.S.A. 24:6I-21.a states, a “municipality may authorize, through the enactment of an ordinance, the operation of locally endorsed cannabis consumption areas.” Thus, the Commission does not have the authority to mandate that a municipality allow operation of a consumption area. However, it should be noted that the Commission frequently educates municipal officials on cannabis topics and will continue to do so. Additionally, as mentioned above, the Commission has interpreted N.J.S.A. 24:6I-21.a(2) and a(3) to mean that a consumption area endorsement must be tied to an alternative treatment center deemed to hold a medical cannabis dispensary permit or a Class 5 Cannabis Retailer license. Thus, a distinction cannot be made between a “dispensary-on-site consumption license” and a “stand alone consumption license.” No changes will be made upon adoption in response to the comments.

Subchapter 7. Cannabis Business Conditional and Annual Licensing Process and Fees

56. COMMENT: One commenter requests clarification on what the application approval fee means, as provided for at N.J.A.C. 17:30-7.17(d)21. (121)

RESPONSE: In accordance with N.J.S.A. 24:6I-34.b(5)(g), approval fees are “reasonably calculated not to exceed the cost of the activity for which the fee is charged.” Approval fees are charged for review of application materials, including investigative time spent by the Commission on each application.

57. COMMENT: Licensing fees should be reduced from \$5,000 to only \$2,000 and should be valid for two years to emphasize social equity and economic equity. High licensing fees can create a significant barrier to entry for individuals from disadvantaged communities who are interested in starting a cannabis-related business. By reducing the licensing fees and making them valid for two years, it will help to reduce the financial burden on new business owners and provide them with more time to establish themselves in the industry. This will promote greater social equity and economic equity, allowing more individuals from disadvantaged communities to participate in the growing cannabis industry. (31)

58. COMMENT: One commenter states that the licensing fees “for microbusiness retailers wanting to add consumption areas will be \$1000; for standard retailers it will be \$5,000.” The commenters asks the Commission for clarification on why standard retailers must pay \$4,000 dollars more than microbusiness retailers. The commenter states that with “the competitive nature of the cannabis industry and lack of property access, due to municipalities opting out, we ask this be lowered.” (105)

RESPONSE TO COMMENTS 57 AND 58: In accordance with N.J.S.A. 24:6I-34.b(5)(g), all fees are “reasonably calculated not to exceed the cost of the activity for which the fee is charged.” The initial or renewal licensing fee for a standard cannabis consumption area endorsement is \$5,000 annually because of the investigative time spent by the Commission in reviewing standard operating procedures and parties of interest, including potential financial sources and management services contractors. However, the initial or renewal licensing fee for a microbusiness cannabis consumption area endorsement is only \$1,000, which will reduce the financial burden on smaller businesses. The fees are lower for microbusinesses as those entities are statutorily required to have a smaller footprint and have fewer “parties of interest” for the Commission to investigate.

59. COMMENT: One commenter states that “Permit fees are exceeding[ly] cheap” and recommends a “ten thousand dollar fee.” (34)

RESPONSE: As mentioned in the Response to Comments 57 and 58, in accordance with N.J.S.A. 24:6I-34.b(5)(g), all fees proposed are “reasonably calculated not to exceed the cost of the activity for which the fee is charged.” Thus, the Commission has determined not to adjust the amount of licensing fees.

Subchapter 9. Cannabis Business License Holder Material Conditions and Requirements

60. COMMENT: Several commenters request that the Commission allow consumption areas to offer food and beverages, and one commenter suggests that the Commission petition the Legislature to pass a law allowing dispensaries to sell food and beverages. Several of the commenters’ reason that not allowing food and non-alcoholic beverages encourages impaired driving, as well as other public safety concerns. (3, 8, 9, 10, 11, 14, 16, 19, 23, 25, 30, 31, 36, 42, 45, 57, 63, 65, 66, 67, 71, 76, 77, 81, 83, 84, 90, 98, 100, 101, 107, 114, 122, 127, 135, 137, 140, 141, and 145)

61. COMMENT: Regarding N.J.A.C. 17:30-9.5, one commenter states that, while the commenter understands the ban on the sale of alcohol and tobacco and understands operators can’t make food or beverages, the commenter suggests that operators should be allowed to make available nourishment and liquid refreshment on site for consumer health and welfare. The commenter states that operators should also have the flexibility as to how that is done (that is, food truck, catered, vending machine). The commenter suggests rewording the restriction to state that only food that has been prepared separately under local health department food preparation and retail regulation and licensure, may be sold. The commenter then provided recommendations for safe access to food and beverages in consumption areas. The commenter stated that for consumption area operators that would use local restaurants for food delivery, they should develop standard operating procedures (SOPs) whereby staff would meet delivery drivers in a secure location inside the dispensary/consumption area and then staff members would deliver the food to consumers. The commenter stated that for consumption area operators that would use food from food trucks, they should develop SOPs whereby staff would meet food truck operators in a secure location inside the dispensary/consumption area and then deliver food to consumers. The commenter stated that for consumption area operators that cannot support outside deliveries, and because some consumers will not want to have a full meal, consumption area operators should offer self-service food and beverage vending machines. This will provide both consumers and operators with the widest array of options and affordable price points. The commenter stated that for any on-site food preparation performed by a separate third-party operator, the third-party can be under the same roof but in a separate walled-off area from the consumption area and regulated pursuant to existing State and local laws for food preparation and handling. Creating fresh meals and snacks through a third-party vendor would be a key factor in allowing businesses to differentiate in a competitive environment while offering healthy options for consumers. The commenter also stated that consumption area operators should have the ability to keep everything in-house for special events and daily operations through a licensed caterer, which would be important for those operators that are not near local food providers or where local food providers do not meet standards/needs of the operator or consumer. (121)

62. COMMENT: One commenter states that “the sale of beverages and pre-packaged goods in cannabis consumption areas will help with most common symptoms and control public safety such as impairment.” (95)

63. COMMENT: One commenter suggests that the Commission’s regulations are over-restricting cannabis consumption areas like regulations in the alcohol industry. The commenter suggests that the overregulation of an industry stifles economic growth. The commenter suggests that the Commission allow cannabis consumption areas to serve food and beverages, as cannabis consumption areas will not “steal business from a local eatery ... because you can’t use cannabis in a restaurant.” The commenter concludes “I have visited cities and countries where cannabis consumption is legal and less regulated, and not only are their restaurants and coffee shops thriving, but there was no trouble in the neighborhood and the streets are clean. Any NIMBY complaints are misguided.” (155)

RESPONSE TO COMMENTS 60, 61, 62, AND 63: N.J.S.A. 24:6I-21.g(2) prohibits consumption areas to operate as a retail food establishment, and the Commission has interpreted that statutory provision to mean that a consumption area may not sell food or beverages to medical patients or consumers. Additionally, N.J.S.A. 24:6I-21.g(2) prohibits consumption of alcohol, tobacco, or nicotine products on the premises. However, the proposed rule does allow for food and beverages purchased from elsewhere to be brought to the cannabis consumption area, if the business allows. Thus, no changes will be made upon adoption.

64. COMMENT: One commenter stated that the Commission should not allow consumption areas to serve food or beverages because “food encourages smoking/imbibing.” (34)

65. COMMENT: One commenter objects to N.J.A.C. 17:30-9.5(b)1 to allow for consumption of food in a cannabis consumption area unless allowed for by law for medical reasons. (129)

RESPONSE TO COMMENTS 64 AND 65: N.J.S.A. 24:6I-21.g(2) prohibits consumption areas to operate as a retail food establishment, and the Commission has interpreted that statutory provision to mean that a consumption area may not sell food or beverages to medical patients or adult-use cannabis consumers. Thus, the Commission proposed N.J.A.C. 17:30-9.5(b), which prohibits the sale of food, beverages, alcohol, or tobacco in a consumption area. However, the Commission acknowledges that food and water are necessary for consumer health and welfare. Thus, the Commission proposed N.J.A.C. 17:30-9.5(b), which permits qualifying patients, designated caregivers, or consumers to bring food into a consumption area or have food delivered there, where allowed by law and not prohibited by the municipality. Thus, no changes will be made upon adoption.

66. COMMENT: Several commenters request that edibles or infused products be available at consumption areas. (14, 16, 17, 46, 49, 63, 64, 118, and 135)

67. COMMENT: One commenter requested that the Commission allow consumption areas to sell non-cannabis food and beverages (non-alcoholic) and reasons that “there is quite a bit of liability with allowing people to bring their own food-how do you ensure the food is safe?” The commenter asks “How will food or beverages be inspected when brought into the lounge?” The commenter states that “Permitting food and beverages adds a revenue stream for operators which is necessary for a retailer where the deductible expenses are limited-this can help micro and social equity applicants.” The commenter states “We need innovation in business and the ability to permit small businesses to thrive with cannabis restaurants, coffee shops, bakeries, etc. Food safety and handling training and compliance with applicable regulations should be followed-regulations exist, just need to apply to this setting.” (21)

68. COMMENT: One commenter states, “Dispensaries and consumption areas will not be able to sell beverages or food at the location, but patrons will be able to bring their own. Issues this proposes: What if patrons bring food that is already infused with cannabis? What if the outside drinks they bring in include alcohol? There would be no way for the retailer to actually check these items until it is too late. Asking each patron to allow the retailer to smell or test their outside items would be an invasion of privacy and personal space.” The commenter provides solutions: “a.) Allow retailers to at least sell canned products that are created by licensed manufacturers. Even if you don’t want to include cannabis infused beverages - a CBD infused drink, a soft drink, or simply

some water would suffice. b.) Only allowing food that is delivered by a reputable carrier should be allowed inside lounges. Benefits: Food delivery wait times could sometimes take 45 minutes to an hour in some cities. If someone is ingesting cannabis, they will most likely than not be thirsty within the first 20 minutes of consumption. Retailers should at least be able to provide beverages to allow the customer to quench their thirst while they await their food delivery.” The commenter concludes, “It is also only fair: Every establishment, whether it’s a restaurant, bar, or lounge can stop people from entering their premises with outside food or drinks but this same right won’t be given to cannabis retailers? It’s simply not right.” (86)

69. COMMENT: Consumption licensees should be permitted to sell cannabis-infused and non-infused food because it provides customers with more options and increases the accessibility of cannabis products. Not everyone enjoys smoking or vaping, and edibles offer a discreet and convenient way for individuals to consume cannabis. Furthermore, offering non-infused food provides designated drivers or individuals who do not want to consume cannabis with an option to still patronize the establishment. This will help to increase the diversity of customers and attract more business for consumption licensees. (31)

70. COMMENT: One commenter recommends that the Commission allow non-cannabis infused food for sale in cannabis consumption areas. The commenter states that the ability for cannabis consumers to have access to food will allow customers to have a more comfortable, safe experience—thus, the “social” aspect. The commenter recommends any business would need to have their food approved by the municipality in which they operate and adopt the food regulations of the local/State health authority or adopt equivalent regulations modeled after the FDA Food Code that adequately address all aspects of food safety. The commenter states that “California has introduced a new bill that would legalize the sale of food and nonalcoholic beverages at cannabis retailers and lounges. The legislation put forward in February 2023 by Assemblyman Matt Haney (D-San Francisco) who said, ‘If we want this legal industry to survive in California, we have to change these laws. They’re losing to the illegal cannabis industry, and one thing that the legal cannabis small business can offer is an experience. Cannabis businesses told us that they may have to close their doors unless the laws change. The regulations that prohibit them from offering other products like food are a huge burden.’” The commenter concludes that “We must learn from other state’s experiences and allowing food would not only deter consumers from the illicit market, it would allow all social consumption areas and partnering restaurant establishments to flourish in the state of New Jersey.” (105)

71. COMMENT: One commenter states that the Commission should treat consumption endorsements the same as any other restaurant or concert venue and allow licensed operators to sell non-cannabis food and alcohol. Consumption venues can operate as food establishments in AK, CA, CO, MI, NV, and NM if they comply with all applicable regulatory requirements. The commenter reasons that allowing existing establishments with liquor licenses would allow hospitality businesses, such as hotels, concert venues, and restaurants, to diversify and expand their customer base. Without food or beverage sales, the commenter concludes that consumption venues will struggle to offer a unique experience for consumers, and public consumption will remain problematic as a result. (62)

72. COMMENT: Several commenters request the rules to allow for the sale of beverages and pre-packaged goods in consumption areas to allow consumers to remain hydrated and maintain sugar levels. (158 through 229)

RESPONSE TO COMMENTS 66 THROUGH 72: As stated in the responses to prior comments, N.J.S.A. 24:6I-21.g(2) prohibits consumption areas to operate as a retail food establishment, and the Commission has interpreted that statutory provision to mean that a consumption area may not sell food or beverages to medical patients or consumers. However, the Commission acknowledges that food and water are necessary for consumer health and welfare. Thus, the Commission proposed N.J.A.C. 17:30-9.5(b), which permits qualifying patients, designated caregivers, or consumers to bring food into a consumption area or have food delivered there, where allowed by law, and not prohibited by the municipality. Additionally, the cannabis business holding a consumption area endorsement and/or the municipality are permitted to

create their own policy regarding bringing outside cannabis products and/or food and beverages into the consumption area, except a consumption area may not prohibit a person from bringing medical cannabis items to a consumption area.

73. COMMENT: One commenter recommends that private, catered cannabis culinary events for an adult audience be allowed on-site. (121)

74. COMMENT: One commenter states that “vending machines should be considered or free non-alcoholic beverages such as bottled water should be provided to guests.” (68)

75. COMMENT: Two commenters request that dispensaries and consumption areas be permitted to be affiliated with restaurants. (46 and 48)

RESPONSE TO COMMENTS 73, 74, AND 75: N.J.S.A. 24:6I-21.g(2) prohibits consumption areas to operate as a retail food establishment. The Commission’s proposed rule at N.J.A.C. 17:30-9.5(b) states that “[a] medical cannabis dispensary or cannabis retailer shall not operate as a retail food establishment, as defined at N.J.A.C. 8:24-1.5.” Pursuant to N.J.A.C. 8:24-1.5, a “retail food establishment” means an “operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption to a consumer, or indirectly to consumers through a delivery service, such as home delivery of grocery orders or restaurant takeout orders, or a service that is provided by common carriers and includes, A restaurant; A satellite or catered feeding location; A catering operation, if the operation provides food directly to a consumer or to a conveyance used to transport people;. A market; A vending location; A conveyance used to transport people; an institution; viii. A food bank; An element of the operation, such as a transportation vehicle, or a central preparation facility that supplies a vending location or satellite feeding location, unless the vending or feeding location is permitted by the health authority; and An operation that is conducted in a mobile, stationary, temporary, or permanent facility or location, regardless of whether consumption occurs on or off the premises and regardless of whether there is a charge for the food.” Thus, the Commission has determined that a consumption area that partners with or offers catering culinary events on site would violate the statutory prohibition. Additionally, vending machines offered by the consumption area would also violate the statutory prohibition. A patron may have food delivered to the cannabis consumption area by a restaurant outside of the licensed premises. Such restaurant may also be owned and operated by the ATC permit holder or cannabis business license holder, as long as the ATC or cannabis business is not operating the restaurant or any other retail food establishment at the licensed premises.

76. COMMENT: One commenter requests that local food businesses be allowed to “set up booths near the consumption areas, not affiliated with the dispensary.” The commenter reasons that “it could benefit local surrounding business while providing refreshments safely.” (66)

RESPONSE: The Commission has determined that allowing local food businesses surrounding consumption areas will not be prescribed by rule, but instead is up to businesses and the municipality to authorize by ordinance or other means. As stated in the responses to prior comments, N.J.S.A. 24:6I-21.g(2) prohibits consumption areas to operate as a retail food establishment. However, the Commission has interpreted the statute to mean that local food businesses surrounding consumption areas are not prohibited, as long as they are not operated by the dispensary or the retailer and the local food businesses are not selling food in the dispensary or consumption area premises.

77. COMMENT: One commenter suggests that the Commission should “allow edibles to be sold on the Boardwalk in Atlantic City.” (30)

RESPONSE: The Commission has determined that this request should be directed to the respective municipality, as a cannabis consumption area must be authorized the municipality in which the business intends to operate. Additionally, this rulemaking deals merely with the Commission’s authorization of consumption areas. Thus, to the extent this request is advocating for a specific location for retail sale of cannabis items, it beyond the scope of this rulemaking.

78. COMMENT: One commenter requests that the Commission clarify that the same people who own the cannabis retail company with a consumption area business may own and operate such a food/beverage preparation business, as long as it operates in a physically separate space and according to local health department locations. (121)

RESPONSE: The Commission has determined that its proposed rules do not prohibit a company operating a cannabis retailer or medical cannabis dispensary with a consumption area from also owning and operating a food/beverage preparation business, as long as it operates in a physically separate space, and the consumption area does not offer food or beverages on site.

79. COMMENT: One commenter suggests that “the consumption area model should be incorporated with a farmers market type vendors license that would allow for different vendors to appear at different consumption spaces.” (135)

RESPONSE: The Commission has determined that allowing different vendors to appear at different consumption spaces will not be prescribed by rule, but instead is up to the municipality to authorize by ordinance or other means. However, as stated in the response to previous comments, N.J.S.A. 24:6I-21.g(2) prohibits consumption areas to operate as a retail food establishment, and the Commission has interpreted that statutory provision to mean that a consumption area may not directly or indirectly sell food or beverages. Thus, a cannabis consumption area may not partner with a vendor that offers food, beverages, or cannabis product inside the consumption area, but a vendor that sells merchandise (for example, t-shirts) is not prohibited.

80. COMMENT: Several commenters request that the rules allow for the sale of cannabis products inside the lounges in order to allow individuals to have an enhanced customer experience, prevent excess traffic in the stores, and allow owners to conduct novel experiences for patrons. (158 through 229)

81. COMMENT: One commenter states that consumption areas “should be allowed to sell cannabis and all cannabis-related products inside the lounges if the customer decides to stay and consume cannabis while maintaining the once per day, per customer rule.” (95)

82. COMMENT: One commenter asks, “Will all patrons be allowed to bring cannabis from outside or will this be relegated only to medical patients?” The commenter states that all “patrons should not be allowed to bring cannabis from the outside - this will simply further promote buying from the (cheaper and very dangerous) Black Market and bringing it to dispensaries simply trying to provide a service to the public.” The commenter concludes that “all products consumed on site should be bought on site (unless they are a verified medical patient with receipts of their products).” (86)

83. COMMENT: One commenter asks how a consumption area makes money if guests can bring outside cannabis into the lounges. The commenter asks, “Do we sell product in the lounge or is that sold through our dispensary and then brought into the lounge?” The commenter concludes that when cannabis edibles and beverages become allowable in the future, they would like to see that as an option for customers. (148)

84. COMMENT: One commenter states that the Commission is allowing customers to bring in their own food and beverages. The commenter asks, “Are any employees going to be monitoring what is being brought in by the customers or is it just to be assumed in good faith that no-one is bringing in anything they shouldn’t be?” (157)

RESPONSE TO COMMENTS 80, 81, 82, 83, AND 84: Entities applying for a consumption area are obtaining an “endorsement” of their existing Class 5 Cannabis Retailer license and not a separate license. Each consumption area endorsement is tied to either an Alternative Treatment Center dispensary permit or a Class 5 Retailer license and N.J.A.C. 17:30-14.10(d)6 permits a permittee or licensee to “transfer medical cannabis or cannabis items purchased by a qualifying patient or consumer in its retail establishment to that patient or consumer in its cannabis consumption area.” Thus, an Alternative Treatment Center dispensary or a Class 5 Retailer holding a consumption area endorsement may generate additional revenue through those types of sales. Additionally, the cannabis business holding a consumption area endorsement and the municipality are permitted to create their own policies regarding what cannabis products are allowed to be brought into a consumption area from the outside, except a consumption area may not prohibit a person from bringing medical cannabis items to a consumption area. The Commission recently proposed its rules regarding additional ingestible/edible forms at 55 N.J.R. 2175(a). Finally, it should be noted that breweries and other establishments allow patrons to bring in outside food, often without incident.

85. COMMENT: One commenter states that consumption area operators must have the ability to develop their own policy with respect to outside cannabis products entering the consumption area. (121)

86. COMMENT: One commenter states that consumption area operators must have flexibility to determine how to safely manage their inventory and to be able to develop SOPs regarding how they will manage their inventory, whether in the dispensary or potentially a separate equally secure location on the premise. The commenter references the “importance of flexibility in how each consumption area safely manages their process of selling licensed cannabis products to patients and adult-consumers-i.e. what (legal) products are sold for consumption, where the products are stored, processed for purchase, and how they will be delivered to the consumer in the area will be different for each location.” (121)

87. COMMENT: One commenter states that retailers should be able to set their own rules and guidelines (based on the rules set by the Commission) to limit who can enter their premises (if they are a risk to others) and what patrons can bring in with them. Every restaurant, bar, or lounge has this right - the same right should be given to consumption area owners as well. (86)

RESPONSE TO COMMENTS 85, 86, AND 87: N.J.A.C. 17:30-14.10(d)6 allows a permittee or licensee to “transfer medical cannabis or cannabis items purchased by a qualifying patient or consumer in its retail establishment to that patient or consumer in its cannabis consumption area.” Additionally, the cannabis business holding a consumption area endorsement and the municipality are permitted to create their own policies regarding what cannabis products are allowed to be brought into a consumption area from the outside, except a consumption area may not prohibit a person from bringing medical cannabis items to a consumption area. Pursuant to N.J.A.C. 17:30-14.10(d)15, a consumption area “shall make good faith efforts to ensure that consumers, patients, and caregivers bring only regulated medical or personal-use cannabis items into the cannabis consumption area.” Additionally, the cannabis business holding a consumption area endorsement and the municipality are permitted to create their own policies regarding who can enter the premises but should be mindful of all State and Federal laws including, but not limited to, anti-discrimination and disability laws. Thus, no changes will be made upon adoption.

88. COMMENT: One commenter states that consumption area operators should be able to have available for consumers additional paraphernalia in the consumption area, such as rolling papers, grinders, water pipes, and other reusable products. Additionally, the commenter stated that consumption area operators should have flexibility to forbid customers from bringing in outside cannabis consumption devices and have ability to sell, rent, or provide such devices directly to consumers. (121)

89. COMMENT: One commenter states “Permit consumption areas to provide cannabis consumption accessories/devices for a fee.” (21)

RESPONSE TO COMMENTS 88 AND 89: The Commission has determined that the Class 5 Cannabis Retailers holding a consumption area endorsement and the municipality are permitted to create their own policies regarding what cannabis paraphernalia are allowed to be brought into a consumption area from the outside. Additionally, Class 5 Cannabis Retailers are not prohibited from selling certain accessories and paraphernalia to cannabis consumers to bring into the attached consumption area.

Training

90. COMMENT: One commenter requests that the Commission define additional trainings required by the Commission; including schedule and frequencies, monitoring, and enforcement pursuant to N.J.A.C. 17:30-9.8(e). (55)

91. COMMENT: One commenter states that the proposed rules include a provision for “any additional trainings” required by the Commission. The commenter urges the Commission to specify that this training includes responsible cannabis vendor training (RVT) for all employees, including preventing sales to those under age 21 and stopping sales to intoxicated patrons. The commenter states that the current “budtender” training programs are primarily focused on the consumer retail aspects, and do not address public health concerns. Further, the commenter urges

the Commission to require RVT, conducted by a designated, unaffiliated educational providers; to withhold the issuance of consumption site licenses until such time as an adequate system of established RVT is in place; and to provide guidance regarding the enforcement of completion of such trainings. (38)

RESPONSE TO COMMENTS 90 AND 91: All cannabis business licensees are required to abide by the training requirements at N.J.A.C. 17:30-9.8, which require licensees among other requirements to “develop, implement, and maintain on the premises, or at the administrative office, a training curriculum; or enter into contractual relationships with outside resources capable of meeting personnel training needs.” The Commission’s proposed rule at N.J.A.C. 17:30-9.8(e) is specific to consumption areas, which states that “[a]ll personnel of a cannabis retailer or medical cannabis dispensary that operates a cannabis consumption area shall complete any additional trainings required by the Commission.” The Commission maintains discretion as to what additional training may be required. After the Commission conducts additional research on necessary training requirements specifically for consumption areas, it will identify any additional training required.

92. COMMENT: One commenter states that if food and beverages (infused and non-infused) are sold in consumption areas, then N.J.A.C. 17:30-9.8(e) should be amended to require local health department requirements for “safe serve” training in food/beverage retail and require consumption area personnel to obtain local health department certification. Additionally, the commenter states that the section should be amended to require consumption areas to develop and provide employee training in “safe and responsible cannabis sales and consumption.” Finally, the commenter states that N.J.A.C. 17:30-9.8(e) should be amended to require all personnel of cannabis retailers to complete additional trainings including certification at the Life Saver level of training in cardiopulmonary resuscitation (CPR). (129)

93. COMMENT: One commenter states that consumption area operators should employ existing local health department regulations concerning “safe serve” training in food/beverage retail to address any food safety concerns from serving foods, and consumption area operators must first obtain health department food retail certification before beginning operations. (121)

94. COMMENT: One commenter states that consumption area operators must establish training programs, such as Sell-Smart, to ensure staff has a plan in place to address conduct in the consumption area, such as identifying customers that may have overconsumed. (121)

95. COMMENT: Two commenters recommended implementing Responsible Service Training Modules for all areas of cannabis operations, specifically CannBSafe Consumption Area Certification. The commenters state that this program is designed for consumption area licensees and not only helps to ensure all employees are properly trained and prepared to provide a safe and enjoyable experience for customers, but also provides oversight and training to ensure licensees are operationally compliant and protected. The commenters state it is modeled on other State-mandated programs. (108)

RESPONSE TO COMMENTS 92, 93, 94, AND 95: Pursuant to the CREAMM Act, the Commission has exclusive jurisdiction over New Jersey cannabis businesses. As mentioned in the responses to prior comments, all cannabis business licensees are required to abide by the training requirements at N.J.A.C. 17:30-9.8, which require licensees among other requirements to “develop, implement, and maintain on the premises, or at the administrative office, a training curriculum; or enter into contractual relationships with outside resources capable of meeting personnel training needs.” The Commission plans to conduct additional research on safety requirements and will take into consideration the specific training programs identified by the commenters when mandating additional trainings.

96. COMMENT: One commenter states that there is insufficient training about how to determine intoxication due to cannabis, and because of a lack of technology to test for intoxication (comparable to blood alcohol level testing for alcohol), driving from consumption areas should not be permitted. The commenter additionally states that special training and education initiatives should be required regarding safe usage of cannabis, the interaction between alcohol and cannabis products, and the risks associated with driving under the influence of cannabis. (35)

RESPONSE: The Commission's proposed rules attempt to keep roadways safe pursuant to N.J.A.C. 17:30-14.10, which states that a consumption area "[s]hall not sell or serve additional cannabis items to a consumer who displays visible signs of intoxication and shall not permit the additional use or consumption of cannabis by a consumer who displays visible signs of intoxication." Additionally, after the Commission conducts more research on necessary training requirements specifically for consumption areas, it will identify any additional trainings licensees must implement. Finally, it should be noted that driving under the influence of intoxicating substances is unlawful pursuant to N.J.S.A. 39:4-50.

Subchapter 14. Cannabis Retailer-Authorized Conduct

97. COMMENT: One commenter requests that N.J.A.C. 17:30-14.10(a) be amended to add that operators can also allow registered patients who are under 21 years of age, but who are accompanied by their licensed adult cannabis caregiver, to consume medical cannabis if the operator can provide an appropriate space for this to occur. (121).

98. COMMENT: One commenter requests that the Commission allow patients who are not 21 years of age to also have safe spaces for consumption, especially children with the supervision of a parent/guardian. (21)

99. COMMENT: One commenter would like proposed regulations to include more oversight for preventing underage use of cannabis by enforcing that those under 21 will not be permitted in lounges and will be required to show identification. (35)

100. COMMENT: Consumption areas are limited to patients over 21 years old, even for patients with caregivers. Patients younger than 21 years of age who are appropriately accompanied should have access to a legal place to consume their medicine. (92)

RESPONSE TO COMMENTS 97, 98, 99, AND 100: The Commission has determined that allowing medical patients who are under 21 years of age to consume cannabis in a cannabis consumption area is prohibited by the CREAMM Act at N.J.S.A. 24:6I-21.h(2). Thus, the Commission proposed N.J.A.C. 17:30-14.10(d)10, which restricts "access to a cannabis consumption area to personnel of the medical cannabis dispensary or cannabis retailer, adults who are at least 21 years of age, and registered qualifying patients and designated caregivers who are at least 21 years of age." The Commission's rules provide for regulatory violations pursuant to N.J.A.C. 17:30-20. Thus, no changes will be made upon adoption.

101. COMMENT: One commenter suggests amending N.J.A.C. 17:30-14.10(b)1 to add the following bolded language "An indoor cannabis consumption area 1. Shall be a structurally enclosed area within a medical cannabis dispensary or cannabis retailer facility, separated by solid walls or windows **(or a glass door), or vertically (and accessed by an escalator, stairs or an elevator)** from the area in which medical cannabis is dispensed or retail sales of cannabis items occur." The commenter suggests the suggested change as being consistent with both the spirit and intent of the proposed new rules and offers the same protection and security as afforded by the presently proposed language assuming all ADA requirements are met. (79)

RESPONSE: A separation between an indoor cannabis consumption area and a dispensing or retail sale area requiring solid walls or windows would already include a solid wall with a solid glass door as part of it, and a solid floor or ceiling separating the room from another room above or below. Thus, no changes will be made upon adoption.

102. COMMENT: One commenter asks "what is the purpose or intent of differentiating indoor areas [17:30-14.10(b)] from outdoor areas [17:30-14.10(c)] regarding allowing separate entrances for outdoor but not for indoor?" (79)

RESPONSE: N.J.S.A. 24:6I-21.f(1) and f(2) provide for different requirements for indoor and outdoor consumption areas. N.J.S.A. 24:6I-21.f(2) states that "[a]n outdoor cannabis consumption area shall be an exterior structure on the same premises as the medical cannabis dispensary, clinical registrant facility, or cannabis retailer, that is either separate from or connected to the dispensary, facility, or retailer, and that is not required to be completely enclosed, but shall have sufficient walls, fences, or other barriers to prevent any view of patients consuming medical cannabis or persons consuming personal use cannabis items within the consumption area from any sidewalk or other pedestrian or non-

motorist right-of-way, as the case may be." Thus, pursuant to the statute, an outdoor consumption area is allowed to have a separate entrance, while the indoor consumption area is not. As such, no changes will be made upon adoption.

103. COMMENT: One commenter states that proposed N.J.A.C. 17:30-14.10(b)2 should be deleted. The commenter states that "it is not required by statute, and there is no good reason to require consumers to first enter the dispensary and from there go through an interior doorway to the consumption area. Especially in cities, this unnecessarily restricts opportunities. For example, many buildings have two separate front doors from the sidewalk, one could access the dispensary and the other the consumption area. Also, if a retailer owns the entire building, the dispensary may be on the ground floor and the consumption area on the second floor, which has a separate ground floor entrance from the sidewalk. Or a building on a corner, the front door could be the dispensary entrance and the side door the consumption area entrance. There also is no requirement that the exterior consumption area be accessed only after entering the dispensary -- why put that requirement on the indoor consumption area?" (147)

RESPONSE: N.J.S.A. 24:6I-21.f(1) and (2) provide for different rules for indoor and outdoor consumption areas, and the outdoor consumption area is not required to be connected to the dispensary or retailer and, thus, is allowed to have a separate entrance. An indoor consumption area "shall only be accessible through an interior door after first entering the dispensary or facility." N.J.S.A. 24:6I-21.f(1). Thus, no changes will be made upon adoption.

104. COMMENT: One commenter states that pursuant to N.J.A.C. 17:30-14.10(c)3, there should be an additional requirement that there be no seepage or migration of smoke to any areas off the premises. Also, the commenter requests that the Commission require monitoring of the air quality at the property lines and describe the monitoring procedures and reporting. (55)

RESPONSE: N.J.S.A. 24:6I-21.f(2) requires that the cannabis business operating the outdoor cannabis consumption area shall ensure that the use of cannabis items does not result in migration, seepage, or recirculation of smoke or other exhaled material to any indoor public place or workplace and, thus, N.J.A.C. 17:30-14.10(c)3 follows that requirement. If there are issues with violations of these requirements, the Commission may additionally require an outdoor consumption area to include any ventilation features as the Commission deems necessary and appropriate. No changes will be made upon adoption.

Allowing More Than One Consumption Area Endorsement

105. COMMENT: One commenter states that the limit set forth at proposed N.J.A.C. 17:30-14.10(d)2 on the number of cannabis consumption areas a medical cannabis dispensary and/or Class 5 retailer may operate would deprive vertically integrated ATCs with multiple dispensaries of the ability to operate more consumption areas, and accordingly, violates the plain language of the CREAMMA and the Jake Honig Law, which impose no such restrictions. The commenter states that pursuant to the statute, the on-site consumption area is only tied to each dispensary/retail location, and not to the license holder. The commenter cites N.J.S.A. 24:6I-21, 33, and 42 in support and cites case law for the holding that regulations cannot narrow or contravene statutory language. (116)

106. COMMENT: Several commenters requested amending or removing the proposed rule "allowing a cannabis business to operate only one cannabis consumption area, regardless of the number of Class 5 Retailer licenses the business holds." The commenters reason that businesses should be able to grow and expand. One commenter suggested that the Commission consider implementing a sunset clause to ensure that the regulation is periodically reevaluated and updated as necessary. (14, 51, 114, and 138)

107. COMMENT: One commenter requests that the Commission allow Class 5 Retailer Licenses to possess multiple consumption area endorsements. The commenter states that "If a Class 5 Cannabis Retailer Licensee meets the CRC's strict operational and compliance, there is no reason to arbitrarily deny them an endorsement." (62)

108. COMMENT: One commenter requests that the Commission consider allowing more than one cannabis consumption area for Class 5

Retailer licenses the business holds. The commenter states that “If the business is compliant with the state and municipality, there should be no reason to hold back the business’s ability to expand and further economic support to the state of New Jersey.” The commenter asks the Commission why the cap is placed on Class 5 Retailers licenses. (105)

RESPONSE TO COMMENTS 105, 106, 107, AND 108: N.J.S.A. 24:6I-42.g(2) states: “Each licensed cannabis retailer may operate only one cannabis consumption area.” Although certain expanded ATCs may be authorized to operate more than one dispensary in accordance with the CREAMM Act, each expanded ATC remains a single licensed cannabis retailer pursuant to the statute. For those businesses, each dispensary is not a separate entity. Thus, the Commission has interpreted the statute to mean that an expanded ATC is limited to one cannabis consumption area, regardless of the number of Class 5 Retail Licenses it holds. This interpretation also promotes equitable opportunities for all cannabis businesses, giving newly created business access to the same market share of consumption areas as businesses that were established before the effective date of the CREAMM Act. Thus, no changes will be made upon adoption.

109. COMMENT: One commenter states that the regulations should distinguish between recreational consumption areas and those of alternative treatment centers. ATCs should be permitted to have consumption areas available at every dispensing site, including satellite locations, restricting locations only penalizes patients. The commenter states that this can be distinct from the requirement of only one consumption area for recreational use per license holder. To increase patient access, ATCs should be incentivized to create these areas through lower consumption area license application fees than recreational retailers. (92)

RESPONSE: N.J.S.A. 24:6I-42.g(2) states “Each licensed cannabis retailer may operate only one cannabis consumption area.” A license holder operating a cannabis consumption area must allow in both registered patients who are at least 21 years old and other consumers who are at least 21 years old. Thus, cannabis retailers and medical cannabis dispensaries operating cannabis consumption areas follow the same rules and are, thus, similarly limited regarding the one cannabis consumption area per entity. No changes will be made upon adoption.

110. COMMENT: One commenter requests that N.J.A.C. 17:30-14.10(d)5 be amended to add that operators may only operate a food preparation business separately, which can make and sell food through cannabis consumption areas. (121)

RESPONSE: As mentioned in response to prior comments, N.J.S.A. 24:6I-21.g(2) provides that dispensaries shall not operate as a retail food establishment. N.J.A.C. 17:30-9.5 restates that prohibition, and adds that “the sale of food, beverages, alcohol, or tobacco on the premises of a cannabis business are prohibited; except that sales of food to personnel or consumption of food brought by or delivered to, qualifying patients, designated caregivers, or consumers in a cannabis consumption area are permitted, where allowed by law.” Thus, the ATC or cannabis business cannot sell and serve food on its licensed premises in the cannabis consumption area and no changes will be made upon adoption. However, the license holder is not prohibited from owning and operating a separate retail food establishment or food truck that is located outside of the licensed premises that provides food delivery to the cannabis consumption area.

111. COMMENT: One commenter requests that N.J.A.C. 17:30-14.10(d)6 be amended to add that operators may store for-sale cannabis products in a secure and monitored location within the consumption area, and may also provide a means for customers to pre-order cannabis to be held for their arrival in the consumption area, even when they arrive after dispensary/retail business hours. (121)

RESPONSE: N.J.S.A. 24:6I-42.g(4) provides that “a Class 5 Cannabis Retailer licensee that has been approved for a cannabis consumption area endorsement may transfer cannabis items purchased by a consumer in its retail establishment to that consumer in its cannabis consumption area.” N.J.A.C. 17:30-14.10(d)6 reflects that same structure of a patient, caregiver, or consumer purchasing cannabis items in the dispensary or retailer and receiving those cannabis items in the cannabis consumption area. Medical cannabis or cannabis purchased from a dispensary or retailer for use in the cannabis consumption area should follow the same

procedures as other medical cannabis or cannabis purchased from a dispensary or retailer, including storage in its usual secure storage area. Patients, caregivers, and consumers may pre-order medical cannabis or cannabis from a dispensary or retailer to be held for their arrival there during business hours. No changes will be made upon adoption.

112. COMMENT: One commenter asks whether the language at N.J.A.C. 17:30-14.10(d)6 indicates that the medical patient or consumer may not purchase the medical cannabis or cannabis items in the consumption area. Alternatively, the commenter asks whether the intent to permit purchases online (by phone, tablet, or personal computer) inside the area that are then delivered (or “transferred”) to the purchaser who remains inside the area while the products are being delivered. The commenter states that they are unsure “what the use case is for a transfer from a dispensary to the lounge is (separate POS’s / inventory).” (79)

RESPONSE: N.J.S.A. 24:6I-42.g(4) provides that “a Class 5 Cannabis Retailer licensee that has been approved for a cannabis consumption area endorsement may transfer cannabis items purchased by a consumer in its retail establishment to that consumer in its cannabis consumption area.” N.J.A.C. 17:30-14.10(d)6 reflects that same structure of a patient, caregiver, or consumer purchasing cannabis items in the dispensary or retailer and receiving those cannabis items in the cannabis consumption area. Patients, caregivers, and consumers may pre-order medical cannabis or cannabis from a dispensary or retailer to be held for their arrival during business hours. Like curbside pick-up, governed at N.J.A.C. 17:30-14.4, a cannabis retailer or ATC may receive a cannabis item order online from a patient, caregiver, or consumer located in the cannabis consumption area, and then cannabis retailer personnel may transfer and deliver the cannabis items to the purchaser in the cannabis consumption area, after performing an in-person visual verification of the consumer’s photographic identification. No changes will be made upon adoption.

113. COMMENT: Regarding N.J.A.C. 17:30-14.10(d)7i, which states that “A medical cannabis dispensary or cannabis retailer shall not engage in multiple sales transactions of medical cannabis or cannabis items to the same person during the same business day when a retailer’s or dispensary’s personnel knows, or reasonably should have known, that the sales transaction would result in the person possessing more than the sales limits established by the Commission,” one commenter states that “while people need to show their ID as proof of age 21, I assume those interactions, including ID number and amount of cannabis purchased, won’t be recorded.” The commenter asks, “How can dispensary personnel be expected to ‘have reasonably known’ if a person exceeds sales limits?” The commenter asks the Commission to “remove that qualifier, leaving when a retailer’s or dispensary’s personnel knows.” (20)

RESPONSE: N.J.S.A. 24:6I-21.g(4)(a) sets the standard that the “retailer’s or dispensary’s employee knows, or reasonably should have known, that the sales transaction would result in the person possessing more than the sales limit,” and N.J.A.C. 17:30-14.10(d)7i reflects that requirement. Medical cannabis dispensaries and cannabis retailers are required to provide training for their personnel that includes various strategies to prevent the exceeding of sales limits. No changes will be made upon adoption.

114. COMMENT: One commenter requests that N.J.A.C. 17:30-14.10(d)10 be amended to add that underage patients accompanied by an adult registered caregiver may also be accommodated, but that hours and space for this may be restricted. (121)

RESPONSE: As mentioned in the response to prior comments, the Commission has determined that allowing medical patients who are under 21 years of age to consume cannabis in a cannabis consumption area is prohibited by the CREAMM Act at N.J.S.A. 24:6I-21.h(2). Thus, N.J.A.C. 17:30-14.10(d)10 cannot be amended to include underage patients, even if accompanied by an adult registered caregiver. N.J.S.A. 24:6I-21.h(2) requires that each person accessing a cannabis consumption area in which personal cannabis items are consumed shall be required to produce a form of government-issued identification to prove the person is of legal age to purchase cannabis items, pursuant to N.J.S.A. 24:6I-35.a(6). Thus, no changes will be made upon adoption.

115. COMMENT: One commenter requests that N.J.A.C. 17:30-14.10(d)11 be amended to add that medical cannabis card holders bringing cannabis products elsewhere must show a valid New Jersey medical cannabis patient identification card. (121).

RESPONSE: Medical cannabis patients are required to show their registry identification card to the dispensary personnel before purchasing their medical cannabis. N.J.S.A. 24:6I-21.h(2) requires that each person entering a cannabis consumption area in which personal cannabis items are consumed shall be required to produce a form of government-issued identification to prove the person is of legal age to purchase cannabis items, pursuant to N.J.S.A. 24:6I-35.a(6). Additionally, a retailer holding a consumption area endorsement may require medical cannabis patients to show their registry identification card prior to entry of the consumption area. Patients, caregivers, and consumers are allowed to carry out remaining unconsumed medical cannabis or cannabis items. No changes will be made upon adoption.

116. COMMENT: One commenter states that sharing a purchase with the people you are sitting with should not constitute “distributing free samples.” (121)

RESPONSE: N.J.S.A. 2C:35-10.a(b) provides that it is not unlawful for a person 21 years or older to transfer, without remuneration, one ounce or less of usable cannabis or its equivalent “to a person who is of legal age for cannabis items, provided that such transfer is for non-promotional, non-business purposes.” The ATC or cannabis business may not distribute free samples, nor may representatives of another company do so for business purposes. Individuals of legal age in a cannabis consumption area may transfer without remuneration up to one ounce or less of usable cannabis, or its equivalent, as long as such transfer is for non-promotional, non-business purposes. No change will be made upon adoption.

117. COMMENT: One commenter suggests that the cross-reference at N.J.A.C. 17:30-14.10(d)13 to N.J.A.C. 17:30-16.2 is incorrect because it describes testing regulations. (121)

RESPONSE: N.J.A.C. 17:30-16.2 is cannabis item packaging requirements, not testing requirements. Thus, N.J.A.C. 17:30-16.2 is the correct cross-reference and no change will be made upon adoption.

118. COMMENT: One commenter states that the Commission must explain the required qualifications for an operator to possess to determine if a consumer is impaired pursuant to proposed N.J.A.C. 17:30-14.10(d)14. Additionally, the commenter states that the Commission must describe procedures for dealing with such a consumer, which cannot include allowing him or her to simply leave the premises. (55)

119. COMMENT: One commenter states that the Commission should alternatively adopt a more suitable standard of attributed knowledge on the part of cannabis providers serving impaired consumers, specifically, from the current “visible signs” standard set forth at N.J.A.C. 17:30-14.10(d)14, to “knew, or reasonably should have known.” Cannabis sellers are experts in the field and so those who choose to sell cannabis for on-site consumption should be “held to a higher degree of vigilance based on that specialized knowledge.” Specifically, the commenter states that N.J.A.C. 17:30-14.10(d)14 should be amended so that “displays visible signs of intoxication and shall not permit the additional use or consumption of cannabis by a consumer who displays visible signs of intoxication” is replaced with “the seller/server knows or reasonable should know is intoxicated and shall not permit the additional use or consumption of cannabis by a consumer the seller/server knows or reasonably should know is intoxicated.” (54)

120. COMMENT: One commenter requests, regarding N.J.A.C. 17:30-14.10(d)14, for the Commission to “define what visible signs of intoxication would be so that there is no ambiguity when enforcement occurs.” (21)

121. COMMENT: One commenter has concerns regarding the regulation’s vague language regarding “visible signs of intoxication.” The commenter states that there needs to be training specified in ATCs to improve sensitivity to patients when differentiating “visible signs of intoxication” from understandable medical symptoms. (92)

RESPONSE TO COMMENTS 118, 119, 120, AND 121: The Commission’s proposed rules reflect the appropriate responsibility and liability for the cannabis consumption area and its personnel. Dispensary or retailer personnel shall monitor cannabis consumption area patrons for “visible signs of intoxication,” using evidence-based protocols for documenting observed behavior and physical signs of impairment to develop reasonable suspicion of intoxication. Intoxication may manifest in people differently, so prescribing specific symptoms of intoxication would not be appropriate. Detection of “visible signs of intoxication” is a

clearer and more provable standard than one requiring the staffer to “know or reasonable should know” that the consumer is intoxicated. Additionally, as mentioned in the responses to prior comments, licensees are required to “develop, implement, and maintain on the premises, or at the administrative office, a training curriculum; or enter into contractual relationships with outside resources capable of meeting personnel training needs.” Thus, licensees are required to develop a curriculum to differentiate visible signs of intoxication from medical symptoms. Moreover, the Commission has issued guidance related to workplace impairment, which discusses using evidence-based protocols for documenting signs of impairment in the workplace. See <https://www.nj.gov/cannabis/documents/businesses/Business%20Resources/Workplace%20Impairment%20Guidance%20922.pdf>. No changes will be made upon adoption.

122. COMMENT: One commenter requests that the Commission strengthen the requirements to ensure only regulated products are allowed in consumption areas. The commenter supports the requirement that “good faith efforts” need to be made to ensure that only regulated medical or personal-use cannabis enters the consumption areas. However, the commenter believes that the language at N.J.A.C. 17:30-14.10(d)15 needs to be strengthened to provide the highest level of assurance that illicit material does not enter the consumption areas. The commenter states that unregulated cannabis products put everyone at risk. (62)

RESPONSE: N.J.A.C. 17:30-14.10(d)15 provides that the ATC or cannabis business “shall make good faith efforts to ensure that consumers, patients, and caregivers bring only regulated medical or personal-use cannabis items into the cannabis consumption area.” The Commission has determined that this is an appropriate standard to keep patients and consumers safe. No changes will be made upon adoption.

123. COMMENT: One commenter states that if outside cannabis is allowed, managing safe customer experience will be difficult. The commenter states that if we allow medical cannabis patients to bring medical cannabis purchased elsewhere, consumption area operators should have flexibility to require that they bring the medical cannabis in a sealed original packaging with a receipt showing it was purchased from a regulated source pursuant to N.J.A.C. 17:30-14.10(e). Additionally, the commenter states that if outside cannabis is allowed, operators must also have flexibility to restrict hours for medical cannabis patient’s use. (121)

124. COMMENT: One commenter stated that “there are concerns regarding the proposal to allow medicinal cannabis patients to bring in cannabis items from other retailers, including potential risks associated with ensuring product safety and integrity and verifying medical cards.” The commenter stated that “It is important to carefully consider and address these concerns to ensure the safety and well-being of all involved parties.” (14)

125. COMMENT: One commenter states that if a medical card-carrying patient is bringing in previously purchased cannabis, it should be cannabis in a sealed container, with original packaging, and receipt proving purchase was from regulated Class 5 dispensary. (121)

126. COMMENT: One commenter states that medicinal cannabis patients must be allowed to bring in cannabis items from other retailers for their own use into consumption areas. The commenter states that any medicinal cannabis patients using a medical recommendation or prescription, should have to provide proof of New Jersey residency in order to bring in cannabis items from other retailers for their own use into consumption areas. (105)

127. COMMENT: One commenter stated that “Dispensaries should not be the only business/people allowed to establish a consumption area and they should not be allowed to require consumers to buy cannabis items from them in order to be able to consume there. They should be allowed to sell products but also give consumers the option of bringing their own supply.” The commenter asked since it is specified that “Medicinal cannabis patients must be allowed to bring in cannabis items from other retailers for their own use into consumption areas, does that mean that the consumption area would be able to require that non-medical customers buy cannabis products from them in order to be allowed to consume?” The commenter believes that “does not seem fair especially if there are allowed to set a buy minimum.” The commenter has seen other states where consumption areas have set pretty high minimums and the

commenter believes that would be discriminatory towards communities that may not be able to meet those high minimums. (3)

128. COMMENT: One commenter states that all consumption areas should ensure sufficient, safe, and prioritized patient access. Pursuant to the proposed regulations, the commenter states that recreational retailers are required to permit patients to bring in medicinal cannabis but have no requirements to guarantee them space once inside. There are no reserved or separate spaces for patients in any consumption areas at expanded ATCs or recreational retailers. The commenter asks, where there will be spaces available to recreational and medicinal users, potentially vulnerable patients who need to ingest cannabis out of medical necessity must inhabit and jockey with potentially intoxicated recreational users—akin to forcing patients to use a crowded bar as a doctor’s office. (92)

RESPONSE TO COMMENTS 123, 124, 125, 126, 127, AND 128: N.J.A.C. 17:30-14.10(e) provides that “a medical cannabis dispensary or cannabis retailer with a cannabis consumption area, and its personnel may permit a person to bring personal-use cannabis items into a cannabis consumption area, as long as the on-premises consumption of that cannabis is authorized by the endorsement received by the medical cannabis dispensary or cannabis retailer. A medical cannabis dispensary or cannabis retailer with a cannabis consumption area may not prohibit a person from bringing medical cannabis items to a consumption area.” N.J.A.C. 17:30-14.10(d)15 provides that the ATC or cannabis business “shall make good faith efforts to ensure that consumers, patients, and caregivers bring only regulated medical or personal-use cannabis items into the cannabis consumption area.” Regarding allowing outside personal-use cannabis, the discretion is up to the entity and the municipality, but the entity should make good faith efforts to ensure only regulated cannabis is brought into the consumption area. Although the entity may not prohibit a patient from bringing in outside medical cannabis, it must make good faith efforts to ensure such patient’s cannabis is regulated medical cannabis. The entity has discretion as to what those good-faith efforts may entail. Regarding the request that operators have flexibility to restrict hours for a medical cannabis patient’s use, the Commission will continue to monitor the market and may, at a later date, explore whether to mandate that consumption areas have patient-only hours or a patients-only section in a future rulemaking. However, until then, the entity has discretion whether it chooses to implement a patient-only hours or a patients-only section in its consumption area. No changes will be made upon adoption.

Federal Standards Statement

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 adopted amendments and new rules 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 they 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. They 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 readopted rules 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 in brackets with asterisks *[thus]*):

SUBCHAPTER 1. GENERAL PROVISIONS

17:30-1.2 Definitions

(a) (No change.)

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

...

“Cannabis consumption area” means, as further described at N.J.S.A. 24:6I-21, a designated location operated by a permitted medical cannabis dispensary or a licensed Class 5 Cannabis Retailer, for which a State and local endorsement has been obtained, at which medical or personal-use cannabis items may be consumed, that is either:

1. An indoor, structurally enclosed area of the medical cannabis dispensary, cannabis retailer that is separate from the area in which the dispensing of medical cannabis or retail sales of cannabis items occurs; or

2. An exterior structure on the same premises as the medical cannabis dispensary, cannabis retailer, either separate from or connected to the cannabis retailer.

...

SUBCHAPTER 2. CONSUMER AND LICENSE HOLDER PROTECTIONS; CONSUMER PROHIBITIONS

17:30-2.1 Consumer and license holder criminal protections

(a) (No change.)

(b) It is not unlawful, pursuant to N.J.S.A. 2C:35-10.a for:

1. (No change.)

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, including to smoke, vape, or aerosolize a cannabis item in a cannabis consumption area as set forth at N.J.S.A. 24:6I-21 and N.J.A.C. 17:30-14.9 and 14.10, or in a guest room at a hotel, motel, or other lodging establishment, as defined at N.J.S.A. 29:4-5, that permits such consumption, smoking, vaping, or aerosolizing; or

3. (No change.)

SUBCHAPTER 5. MUNICIPAL AUTHORITY

17:30-5.1 Municipal authority

(a)-(m) (No change.)

(n) A municipality may authorize or prohibit, through the enactment of an ordinance or regulation, the operation of a locally endorsed cannabis

consumption area, including a cannabis consumption area operated by an alternative treatment center.

1. Such ordinance or regulation shall not conflict with the Act or this chapter and may govern the location, manner, and times of operations of consumption areas; and

2. Such ordinance may include a reasonable minimum distance from schools, child daycare facilities, playgrounds, and places of worship where the municipality allows cannabis consumption areas to locate.

(o) If a municipality allows cannabis consumption areas, after receiving a cannabis consumption area application from the Commission, the municipality shall determine whether the application complies with its local restrictions on cannabis consumption areas and shall inform the Commission of its determination in a manner specified by the Commission on its website at <https://www.nj.gov/cannabis>.

SUBCHAPTER 7. CANNABIS BUSINESS CONDITIONAL AND ANNUAL LICENSING PROCESS

(OAL Note: The text at N.J.A.C. 17:30-7.17 below reflects the adoption of new N.J.A.C. 17:30-7.17(d)12 through 17 and the recodification of then-existing N.J.A.C. 17:30-7.17(d)12 through 18 as 17:30-7.17(d)18 through 24 effective March 6, 2023. N.J.A.C. 17:30-7.17(d)19 through 23, as proposed in this rulemaking is recodified upon adoption without change as N.J.A.C. 17:30-7.17(d)25 through 29.)

17:30-7.17 Cannabis business and testing laboratory fees

(a)-(c) (No change.)

(d) The following licensing fees shall be paid by license applicants or license holders, as applicable:

1.-11. (No change.)

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	\$3,000
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.-iii. (No change.)	
24. Cannabis Business Identification Card issuance fee	\$25
[19.] *25.* (Reserved)	
[20.] *26.* Cannabis consumption area endorsement application submission fee	\$200
[21.] *27.* Cannabis consumption area endorsement application approval fee	\$800
[22.] *28.* Microbusiness cannabis consumption area endorsement initial or renewal licensing fee	\$1,000
[23.] *29.* Standard cannabis consumption area endorsement initial or renewal licensing fee	\$5,000

(e)-(m) (No change.)

SUBCHAPTER 9. CANNABIS BUSINESS LICENSE HOLDER MATERIAL CONDITIONS AND REQUIREMENTS

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, except cannabis items may be consumed in a cannabis consumption area.

(b) A medical cannabis dispensary or cannabis retailer shall not operate as a retail food establishment, as defined at N.J.A.C. 8:24-1.5, and the sale of food, beverages, alcohol, or tobacco on the premises of a cannabis business are prohibited; except that sales of food to personnel of such cannabis business on the premises in an area separated from the physical plant, such as an employee break room; or consumption of food brought by or delivered to, qualifying patients, designated caregivers, or consumers in a cannabis consumption area are permitted, where allowed by law.

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

17:30-9.8 Cannabis business training

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

(e) All personnel of a cannabis retailer or medical cannabis dispensary that operates a cannabis consumption area shall complete any additional trainings required by the Commission.

SUBCHAPTER 14. CANNABIS RETAILER AUTHORIZED CONDUCT

17:30-14.9 Cannabis Consumption Area Endorsement Application Process

(a) A medical cannabis dispensary or cannabis retailer may operate a cannabis consumption area in accordance with N.J.S.A. 24:6I-21 and this chapter upon receiving an endorsement from the Commission and the municipality in which it is located.

(b) To apply for a cannabis consumption area endorsement, the medical cannabis dispensary or cannabis retailer shall submit an application meeting the requirements at N.J.S.A. 24:6I-21 and this section to the Commission.

1. Each applicant shall submit, along with the application, an oath or attestation that the information provided in the application is true and accurate.

(c) Within 14 days of receipt of a complete cannabis consumption area endorsement application, the Commission shall forward a copy of the application to the municipality in which the cannabis consumption area is to be located, unless the municipality has prohibited the operation of cannabis consumption areas.

(d) Within 28 days of receipt of a complete cannabis consumption area endorsement application, the municipality shall determine whether the application complies with its local restrictions on cannabis consumption areas and receives its endorsement and shall inform the Commission of its determination.

(e) After the receipt of the determination of the municipality on whether the application complies with local restrictions and receives a municipal endorsement, the Commission shall make a determination on the completed application.

1. Such determination may include a determination that the Commission requires more time to adequately review the application.

2. If the municipality denies the application for, or revokes the municipal endorsement, the Commission shall deny or revoke the State endorsement.

(f) The Commission may deny an application for or the renewal of a State cannabis consumption area endorsement, or suspend or revoke a cannabis consumption area endorsement or Class 5 Cannabis Retailer license, under one or more of the following conditions:

1. The cannabis consumption area operator has not submitted the requisite application or licensing fees pursuant to N.J.A.C. 17:30-7.17;

2. The premises on which the applicant proposes to conduct its business does not meet the requirements of the Jake Honig Compassionate Use Medical Cannabis Act, P.L. 2009, c. 307 (N.J.S.A. 24:6I-1 et seq.) or the Act, as applicable, or this chapter; or

3. There is a reason for denial or revocation set forth at N.J.S.A. 24:6I-21, including “good cause.”

i. For the purpose of this paragraph, “good cause” means:

(1) The endorsed applicant, permit holder, or license holder has violated, does not meet, or has failed to comply with, any of the terms, conditions, or provisions at N.J.S.A. 24:6I-21, this chapter, and any other

rules promulgated pursuant to N.J.S.A. 24:6I-21, or any supplemental local laws, rules, or regulations;

(2) The endorsed applicant, permit holder, or license holder has failed to comply with any special terms or conditions that were placed on its endorsement by the Commission or municipality; or

(3) The premises have been operated in a manner that adversely affects the public health or the safety of qualifying patients, consumers, personnel of the medical cannabis dispensary, cannabis retailer, the general public, or the immediate neighborhood in which the consumption area is located.

(g) If the Commission denies an application for, or revokes, a State cannabis consumption area endorsement, the Commission shall provide the applicant with written notice of the denial or revocation and the specific reason for the denial or revocation.

(h) Any Commission decision made to approve or deny a State cannabis consumption area endorsement application pursuant to N.J.S.A. 24:6I-21 or this section shall be considered a final agency decision for the purposes of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and 52:14F-1 et seq., 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. 17:30-17.9.

(i) Any person aggrieved by the municipal denial of an endorsement application or municipal revocation of an endorsement may request a hearing in the Superior Court of the county in which the application was filed.

1. The request for a hearing shall be filed within 30 days after the date of the municipal denial of the application.

2. The person shall serve a copy of the person's request for a hearing upon the appropriate officer for the municipality that denied the application or revoked the endorsement.

3. The hearing shall be held, and a record made thereof, within 30 days after the receipt of the request for a hearing.

4. No formal pleading and no filing fee shall be required for the hearing.

(j) A cannabis consumption area endorsement shall be valid for one year and may be renewed annually, subject to the approval of the Commission and the municipality as set forth at N.J.S.A. 24:6I-21 and this chapter.

(k) The Commission shall maintain a list of all cannabis consumption areas in the State and shall make the list available on its Internet website.

17:30-14.10 Cannabis consumption area conduct

(a) It shall not be unlawful and it shall be permitted for a qualifying patient or consumer to consume, smoke, vape, or aerosolize in the cannabis consumption area medical cannabis or cannabis items, as applicable, pursuant to N.J.S.A. 24:6I-21 and this section.

1. All cannabis consumption areas shall allow registered patients who are at least 21 years of age to consume medical cannabis.

(b) An indoor cannabis consumption area:

1. Shall be a structurally enclosed area within a medical cannabis dispensary or cannabis retailer facility, separated by solid walls or windows from the area in which medical cannabis is dispensed or retail sales of cannabis items occur;

2. Shall only be accessible through an interior door after first entering the dispensary or retailer facility; and

3. Shall comply with all ventilation requirements applicable to cigar lounges, as that term is defined at N.J.S.A. 26:3D-57, in order to permit indoor smoking, vaping, or aerosolizing of medical cannabis or cannabis items that is the equivalent of smoking tobacco not in violation of the New Jersey Smoke-Free Air Act, N.J.S.A. 26:3D-55 et seq.

(c) An outdoor cannabis consumption area:

1. Shall be an exterior area on the same premises as the medical cannabis dispensary or cannabis retailer that is either separate from or connected to the dispensary or retailer;

2. Is not required to be completely enclosed, but shall have sufficient walls, fences, or other barriers to prevent any reasonable view from any sidewalk or other pedestrian or non-motorist right-of-way of patients or consumers consuming medical cannabis or cannabis items, as the case may be, within the consumption area; and

3. Shall ensure that any smoking, vaping, or aerosolizing of medical cannabis or cannabis items that occurs in the area does not result in

migration, seepage, or recirculation of smoke or other exhaled material to any indoor public place or workplace as those terms are defined at N.J.S.A. 26:3D-57, which includes the use of any ventilation features the Commission deems necessary and appropriate.

(d) A medical cannabis dispensary or cannabis retailer operating a cannabis consumption area:

1. Shall possess both a current State and municipal endorsement in order to operate;

2. Shall only operate one cannabis consumption area, regardless of the number of Class 5 Cannabis Retailer licenses held by the cannabis retailer;

3. Shall designate the cannabis consumption area by conspicuous signage, which shall indicate that the cannabis consumption area may be used for the on-premises consumption of medical cannabis and personal use cannabis items;

4. Shall not sell or allow the consumption of any alcohol, including fermented malt beverages or malt, vinous, or spirituous liquor, or tobacco or nicotine products on the premises;

5. Shall not operate as a retail food establishment as defined at N.J.A.C. 8:24-1.5;

6. May transfer medical cannabis or cannabis items purchased by a qualifying patient or consumer in its retail establishment to that patient or consumer in its cannabis consumption area;

7. Shall limit the amount of medical cannabis or cannabis items sold to a person to be consumed in its consumption area, or brought into its consumption area if permitted pursuant to (e) below, to no more than the sales limits at N.J.S.A. 24:6I-10.f and N.J.A.C. 17:30-14.3(d).

i. A medical cannabis dispensary or cannabis retailer shall not engage in multiple sales transactions of medical cannabis or cannabis items to the same person during the same business day when a retailer's or dispensary's personnel knows, or reasonably should have known, that the sales transaction would result in the person possessing more than the sales limits established by the Commission;

8. Shall provide information regarding the safe consumption of medical cannabis or cannabis items at the point of sale to all persons who make a purchase, as well as to all persons entering the cannabis consumption area;

9. Shall not allow on-duty personnel of the establishment to consume any medical cannabis or personal use cannabis items in the consumption area, other than on-duty personnel who are registered qualifying patients, if the medical cannabis dispensary or cannabis retailer does not otherwise provide reasonable accommodations in a private area for that person to use medical cannabis;

10. Shall restrict access to a cannabis consumption area to personnel of the medical cannabis dispensary or cannabis retailer, adults who are at least 21 years of age, and registered qualifying patients and designated caregivers who are at least 21 years of age;

11. Shall require each person, in order to enter the consumption area to produce a form of government-issued photo identification that may be accepted pursuant to N.J.S.A. 24:6I-35.a(6)(a) and N.J.A.C. 17:30-14.3(a) to prove they are at least 21 years of age;

12. Shall not distribute or allow others to distribute free cannabis samples on the premises of the cannabis business;

13. Shall ensure, when a patient or consumer leaves a cannabis consumption area, that any remaining unconsumed medical cannabis or cannabis item that is not carried out with the patient, the patient's designated caregiver, or the consumer is destroyed;

i. When patients or consumers carry out medical cannabis or cannabis items that can no longer be resealed in accordance with N.J.A.C. 17:30-16.2(f)4, the medical cannabis dispensary or cannabis retailer shall provide the patient or consumer with an exit package that complies with N.J.A.C. 17:30-16.2 to store their unused cannabis items or medical cannabis, as applicable;

14. Shall not sell or serve additional cannabis items to a consumer who displays visible signs of intoxication and shall not permit the additional use or consumption of cannabis by a consumer who displays visible signs of intoxication; and

15. Shall make good faith efforts to ensure that consumers, patients, and caregivers bring only regulated medical or personal-use cannabis items into the cannabis consumption area.

(e) A medical cannabis dispensary or cannabis retailer with a cannabis consumption area, and its personnel may permit a person to bring personal-use cannabis items into a cannabis consumption area, as long as the on-premises consumption of that cannabis is authorized by the endorsement received by the medical cannabis dispensary or cannabis retailer. A medical cannabis dispensary or cannabis retailer with a cannabis consumption area may not prohibit a person from bringing medical cannabis items to a consumption area.

(f) If an emergency requires law enforcement personnel, firefighters, emergency medical services providers, or other public safety workers to enter a cannabis consumption area, the medical cannabis dispensary or cannabis retailer shall prohibit on-site consumption of medical cannabis and cannabis items until such public safety workers have completed their investigation or services and have left the premises.

TREASURY—TAXATION

(a)

DIVISION OF TAXATION

**Notice of Readoption
Unfair Cigarette Sales Act
Readoption: N.J.A.C. 18:6**

Authority: N.J.S.A. 56:7-31 and 54:50-1.

Authorized By: Marita Sciarotta, Acting Director, Division of Taxation.

Effective Date: January 25, 2024.

New Expiration Date: January 25, 2031.

Take notice that pursuant to N.J.S.A. 52:14B-5.1.c, N.J.A.C. 18:6 was scheduled to expire on March 31, 2024. N.J.A.C. 18:6 provides guidance on the Unfair Cigarette Sales Act. The New Jersey Unfair Cigarette Sales Act of 1952, N.J.S.A. 56:7-18 et seq., was enacted as a companion law to the New Jersey Cigarette Tax Act, N.J.S.A. 54:40A-1 et seq. The purpose of the Unfair Cigarette Sales Act is to prevent unfair competition and unfair trade practices in the sale of cigarettes in New Jersey that would adversely affect the prompt and efficient collection of taxes on the sale of

cigarettes and the revenues and fees from licensing manufacturers, distributors, wholesalers, retailers, and other persons engaged in the sale of cigarettes in New Jersey. Further, the New Jersey Unfair Cigarette Sales Act declares it to be the policy of the State of New Jersey to promote the public welfare by prohibiting sales of cigarettes below cost.

The Division of Taxation (Division) has reviewed the rules and has determined that the rules should be readopted because they are necessary, reasonable, and proper for the purpose for which they were originally promulgated. Therefore, pursuant to N.J.S.A. 52:14B-5.1.c(1), N.J.A.C. 18:6 is readopted and shall continue in effect for a seven-year period.

Chapter 6 currently includes the following subchapters:

Subchapter 1, General Provisions, discusses defined terms and that retailer and wholesaler are not mutually exclusive.

Subchapter 2 is reserved and has no rules.

Subchapter 3, Price Lists, discusses minimum resale prices, fractional cents, revised minimum resale prices, manufacturers’ promotions, and minimum resale prices.

Subchapter 4, Manufacturer’s Promotional Sales Plans, discusses promotional sales plans, notification to the Division, sales campaigns shall be nondiscriminatory, cost of plan borne by the sponsoring manufacturer, written statement of plan on premises, noncompliance, and purchases by manufacturers’ representatives.

Subchapter 5, Reports Required, discusses distributor reports required, wholesale dealer reports required, time for filing reports, consolidated reports, number of reports required, form of reports, place for filing reports, secrecy of reports, reports to be executed, and reporting of unlicensed retailers.

Subchapter 6, Remedies and Penalties, discusses suspension or revocation of license, notice of suspension or revocation of license, hearing of suspension or revocation of license, basis of order of suspension or revocation of license, service of order of suspension or revocation of license, appeal of order of suspension or revocation of license, and notice of suspension or revocation to manufacturers.

Subchapter 7, Miscellaneous Provisions, discusses combination sales, illegal and void contracts, cigarette price signs, cooperatives, drop shipments and prepackaging, purchase of retail dealer’s license, credit memoranda, trading stamps, that the Act applies to all cigarette licensees, change of source of supply, gifts or loans, and powers of the Director of the Division.