

## **What To Know About the Cannabis Regulatory Commission's Proposed New Guidelines**

*New Jersey Law Journal*

On Sept. 8, 2023 the New Jersey Cannabis Regulatory Commission (the CRC) introduced proposed guidelines to allow additional ingestible forms of cannabis products in the medical and recreational cannabis markets, including cannabis-infused beverages, baked goods, candies, gummies, butters, jams, jellies and chocolates.

By **Michael F. Schaff and Jennie M. Miller** | October 26, 2023

On Sept. 8, 2023 the New Jersey Cannabis Regulatory Commission (the CRC) introduced proposed guidelines to allow additional ingestible forms of cannabis products in the medical and recreational cannabis markets, including cannabis-infused beverages, baked goods, candies, gummies, butters, jams, jellies and chocolates. Previously, only the manufacturing and dispensing of syrups, oils, tablets, pills, capsules, chewables and drops of cannabis products was permitted. The CRC approved the proposal by a 4-0 vote and the proposal is now subject to the 60-day public comment period, starting Oct. 16, 2023 through Dec. 15, 2023.

In allowing this expansion, the CRC recognized that finalizing the proposed guidelines would take some time, and as a result, simultaneously issued a temporary regulatory waiver of N.J.A.C. 17:30A-10.7e, which initially limited an Alternative Treatment Center (ATC) to package, manufacture or dispense medicinal marijuana, only, in dried form, oral lozenges, or topical or oral formulations. Now, an ATC will be allowed to produce and dispense edible forms of medicinal cannabis products that do not require time and/or temperature control to safely limit any pathogenic microorganism growth or toxin formation (non-TCS foods). The waiver does not extend to the recreational adult-use market.

In approving the proposals, the CRC recognized that N.J.S.A. 24:6I-33 previously authorized edible cannabis products under the definition of “cannabis products.” The CRC concluded that allowing the manufacturing and dispensing of additional edible and ingestible forms of cannabis “will benefit the patient population by providing additional forms of medical cannabis to patients and caregivers [and] alleviate suffering from debilitating medical conditions.” Critically, the CRC determined that allowing such manufacturing and dispensing does not create a danger to the public health, safety or welfare.

To ensure no danger exists, the CRC has imposed a lengthy list of terms and conditions with which the products must comply for consumer safety, including, but not limited to:

1. Limitations on the amount of tetrahydrocannabinols (THC) permitted in the medicinal cannabis product, specifically capping single-serve beverages at no more than five milligrams of THC and other edibles at ten milligrams.
2. All beverages must specifically be packaged and labeled in single-serve containers, and may not include more than one serving per container.

3. All products must be labeled with (i) all ingredients, in descending order of prevalence by weight or volume, as applicable, (ii) a nutritional label, (iii) indication if refrigeration is required, and (iv) any other labeling requirements set forth at N.J.A.C. 17:30A. In the event the product's effects are intended to be felt in less than 20 minutes, that product must clearly explain in no less than ten-point font, "The intoxicating effects of this product usually occur in less than 20 minutes but may be delayed by two or more hours."
4. The maximum expiration date for non-TCS food and single serve beverage items is six months from the manufacture date.
5. Any employees engaged in the manufacturing of medicinal cannabis products as now authorized, must undergo food and safety training to understand the causes and prevention of foodborne illnesses, according to the Centers for Disease Control and Prevention, and safe food handling practices, including the treatment of any major food allergens.

Finally, the medicinal cannabis products also cannot be (i) in the form of an alcoholic beverage, (ii) contain tobacco or nicotine, (iii) require the cooking or baking by the consumer, (iv) require storage in sterile conditions by the consumer, or (v) contain any controlled dangerous substances as defined in N.J.S.A. 24:2I-2. The failure to comply could result in fines, or suspension or revocation of an ATC permit by the CRC.

So what will be next for the New Jersey cannabis market? Stay tuned.

Members of the public who would like to submit comments to the CRC related to the proposed guidelines may do so until Dec. 15, either electronically or by regular mail.

*Disclaimer: Cannabis remains a scheduled narcotic under federal law, and anyone considering entering this field should first consult with competent counsel. The information contained in this article does not constitute legal advice and is for informational purposes only.*

**Michael F. Schaff** is a shareholder with Wilentz, Goldman & Spitzer, where he co-chairs the corporate, health care and cannabis departments. Schaff just completed six years as a trustee of the New Jersey State Bar Association (NJSBA), is a past co-chair of the NJSBA Cannabis Law Committee and is currently on its executive committee.

**Jennie M. Miller** is an associate with Wilentz, Goldman & Spitzer, where she focuses her legal practice on corporate, health care and cannabis law. Miller is currently a member of the NJSBA Cannabis Law Committee.

This article is reprinted here with permission from the October 26 issue of the New Jersey Law Journal. © 2023 ALM Media Properties, LLC. Further duplication without permission is prohibited. All rights reserved.