

**DEPARTMENT OF FOOD AND AGRICULTURE
CALCANNABIS CULTIVATION LICENSING DIVISION
CHANGES WITHOUT REGULATORY EFFECT UNDER
CALIFORNIA CODE OF REGULATIONS, TITLE 1, SECTION 100**

SUBJECT MATTER OF PROPOSED REGULATIONS: Medicinal and adult-use commercial cannabis regulations.

SECTION AFFECTED: Title 3, California Code of Regulations, sections 8000-8609; Title 4, California Code of Regulations, sections 16000 – 16609

BACKGROUND

On January 16, 2019, the CalCannabis Cultivation Licensing Division within the California Department of Food and Agriculture (Department of Food and Agriculture), adopted regulations to clarify and make specific licensing and enforcement criteria for commercial cannabis businesses under the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA).

On January 10, 2020, Governor Newsom’s administration (Administration) announced as part of the budget for the 2020-2021 fiscal year the consolidation of the Department of Food and Agriculture, the Bureau of Cannabis Control (Bureau) within the Department of Consumer Affairs, and the Manufactured Cannabis Safety Branch within the Department of Public Health (Department of Public Health) into a single entity to be named the Department of Cannabis Control (Department). The Department will oversee the licensing and enforcement of all commercial cannabis activity conducted in the state. Consolidation of the three licensing entities was to occur by July 1, 2020; however, due to the COVID-19 pandemic, the Administration re-evaluated its ability to implement the consolidation as scheduled and subsequently postponed the consolidation until the 2021-2022 fiscal year. On January 8, 2021, the Administration announced during the 2021-2022 budget proposal that the consolidation of the three entities into the Department will be effective July 1, 2021.

STATEMENT OF EXPLANATION

Title 1, California Code of Regulations (CCR) 100 (a)(1) and (a)(4), provides that an agency may revise text published in the California Code of Regulations in order to renumber, reorder, or relocate regulatory provisions and to revise structure, syntax, cross-reference, grammar, or punctuation.

The Department will continue to enforce MAUCRSA and all the regulations adopted by the three licensing entities. Currently, the regulations of each of the three licensing entities are in different titles within the CCR. The Bureau is under Title 16, the Department of Food and Agriculture is under Title 3, and the Department of Public Health is under Title 17. The Department’s regulations will be located under 4 CCR, Division 19, sections 15000 - 17999. Therefore, the Department of Food and Agriculture’s regulations will need to be relocated and renumbered within the new title.

Further, all references and cross-references in the regulations to the Department of Food and Agriculture, the Department of Public Health, and the Bureau as separate licensing entities will need to be changed to reference the Department since these entities will no longer exist as currently named as of July 1, 2021.

1 CCR 100 (a)(2), provides that an agency may delete text published in the California Code of Regulations if all statutory or constitutional authority for the regulatory provision has been repealed.

The three cannabis licensing entities, including the Department of Food and Agriculture, were authorized by MAUCRSA, under Business and Professions Code section 26054.2, to provide priority licensing to applicants identified as operating in compliance with the Compassionate Use Act of 1996 (Section 11362.5 of the Health and Safety Code) and its implementing laws before September 1, 2016. This section became inoperative by its own provisions on December 31, 2019 and the licensing entities were no longer authorized to provide priority licensing for applicants identified as operating in compliance with the Compassionate Use Act of 1996. Since the Department will continue to operate under the authority of MAUCRSA, it will also not have the statutory authority to provide priority licensing. Therefore, section 8111 of the Department of Food and Agriculture's regulations is no longer enforceable.

Based upon the foregoing, the Department of Food and Agriculture has determined that the proposed changes to relocate and renumber 3 CCR, sections 8000 – 8609, to 4 CCR, sections 16000 – 16609, are appropriate for revision under 1 CCR 100(a)(1) and (a)(4) because the changes are relocating and renumbering the regulations consistent with the consolidation plans implemented by the Administration. The changes also eliminate any potential confusion and inconsistency created by the existing language of the regulations in referencing the Department of Food and Agriculture, the Bureau, or the Department of Public Health as separate licensing entities instead of the Department. Further, the deletion of section 8111 regarding priority licensing is consistent with 1 CCR 100(a)(2) as the statutory authority to provide priority licensing has become inoperative.

The proposed changes do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any other provision of MAUCRSA.