

**Department of Cannabis Control  
California Code of Regulations Title 4, Division 19**

**Medicinal and Adult-Use Commercial Cannabis Regulations**

September 27, 2021

**Addendum to Finding of Emergency**

**Background**

On September 15, 2021, the Department of Cannabis Control (Department) submitted to the Office of Administrative Law (OAL) an action to adopt its emergency regulations that consolidate, clarify, and make consistent licensing and enforcement criteria for commercial cannabis businesses, including cultivators, manufacturers, distributors, retailers, microbusinesses, testing laboratories, cannabis event organizers, and temporary cannabis events.

The Department hereby incorporates this addendum as part of the emergency rulemaking package. Unless a specific basis is stated for any modification to the purpose, necessity, and rationale for each adoption as initially stated in the Finding of Emergency, the purpose, necessity, and rationale for each adoption of the regulations as set forth in the Finding of Emergency continues to apply to the regulations as adopted. The modified purpose, necessity, and rationale for the proposed text of the regulations are summarized below. The Department has made edits throughout the text for grammar, spelling, punctuation, formatting, and syntax. These edits are nonsubstantive and do not modify the meaning or intent of the regulations.

The Department also made edits within the text to cross-references to regulations in this division, sections of the Business and Professions Code, and other areas of law for accuracy. In addition to nonsubstantive edits and edits to cross-references, the forms incorporated by reference have been updated in accordance with changes in the corresponding regulatory sections.

Lastly, the Department made further edits throughout the text to the terms: cannabis, cannabis products, and cannabis goods. These edits were necessary for consistency in use of terms throughout this division.

**15000. Definitions.**

Proposed subsection (k) has been amended to revise the cross-reference. The definition now references sections 15718 through 15724. This change is necessary for accuracy.

Proposed subsection (n) has been amended to include a cross-reference to the definition for “Total CBD.” This change is necessary to ensure that the licensees are aware of the relationship of the terms used throughout this division.

Proposed subsection (ii) has been amended to include cannabis. This is necessary for accuracy and consistency in use of terms throughout this division.

Proposed subsection (tt) has been amended to replace cannabis product with cannabis goods for consistency with the terms used throughout this division.

Proposed subsection (uu) to include additional examples of nonvolatile solvents. This change is necessary so that all examples of nonvolatile solvents are included in the same section and for consistency with the definition of volatile solvent.

Proposed subsection (xx) has been amended to remove the second sentence which specified that artificial lighting is permissible only to maintain immature plants outside the canopy area. The Department determined that this requirement should be moved to section 16202(b) for inclusion with general cultivation requirements rather than remaining in the definition of outdoor cultivation.

Proposed subsection (ggg) has been amended to add cannabis. This is necessary for consistency with terms used throughout this division.

Proposed subsection (iii) has been amended to add cannabis. This is necessary for consistency with terms used throughout this division.

Proposed subsection (ppp) has been amended to include a cross-reference to the definition for “Total THC.” This change is necessary to ensure that the licensees are aware of the relationship of the terms used throughout this division.

Proposed subsection (uuu) has been amended to remove “on a licensed premises” for clarity.

Proposed subsection (yyy) has been amended to add “watts per square foot.” The rest of the section has been renumbered accordingly. The Department is moving section 16000(ae) which defines “watts per square foot” by adding subsection (yyy) to this section to consolidate it with all other definition, but no substantive changes were made. References to the cultivation plan were changed to premises diagram for consistency. This definition is necessary to include to specify how cultivation licensees will calculate this information.

The definition for wholesale cost is now contained in proposed subsection (zzz) and has been amended to include a cross-reference to the definition of wholesale cost in section 3700 of title 18 of the California Code of Regulations.

### **§15000.3. Premises Location.**

This section has been amended to specify that subsection (c) prohibiting a premises from being located within a private residence does not apply to cultivation license holders. This amendment is necessary because current cultivation licensees have premises that are located within a private residence. Thus, the Department determined that it would not be appropriate to implement this requirement at this time.

### **§15001.1. Issuance of Provisional License.**

This section specifies the provisions regarding issuance of a provisional license. This section has been amended to align with the Act. The provision in proposed subsection (a) that excluded cultivation licenses has been removed and the text amended accordingly to include the additional provisions that are applicable for cultivation licenses pursuant to the statute for clarity. This includes limitations on the size of cultivation premises and the information required related to streambed alterations.

Subsection (b) has been amended to clarify the applicable date range for the requirements in this subsection is after June 30, 2022 and until September 30, 2022. The provisions of proposed subsection (b)(4) have been moved to after the subsections in (b)(3) for clarity.

Subsection (c) has been amended to clarify the applicable date range for the requirements in this subsection is after June 30, 2022 and until June 30, 2032.

### **§15003. Notice of Provisional License Review.**

Subsection (a) has been modified to change “may” to “shall” in reference to the Department’s issuance of a Notice of Provisional License Review. The Department will issue this notice when considering suspension, revocation, or denial of renewal of a provisional license; therefore, the use of shall makes it clear that this will occur for all such matters. This is necessary to ensure all licensees receive this opportunity.

### **§15002. Annual License Application Requirements.**

Original subsection (c)(6) has been proposed to be retained as new subsection (c)(29). The Department determined that this information was necessary for determining whether or not an applicant is suitable for licensure, thus it has been retained. The subsection has also been amended to clarify that the applicant must provide the type of license denied, suspended, or revoked as well as the licensing authority and date of the denial, suspension, or revocation.

Proposed subsection (c)(27) has been amended to make this provision to provide the State Employer Identification Number (SEIN) only required if applicable. This is necessary because in some circumstances a commercial cannabis business may not be required to have a SEIN based on California law governing SEINs.

### **§15003. Owners of Commercial Cannabis Businesses.**

Proposed subsection (a)(1) has been amended to accurately clarify how a single person may have an “aggregate” ownership interest. The Department determined that this example created confusion rather than clarity; therefore, provided a different example. The Department has also amended subsection (a)(2)(E) to remove references to providing strategic direction and oversight because the Department determined this language created confusion rather than providing clarity and that the positions contained with the subsection were sufficient. Proposed subsection (a)(2) has been amended to remove proposed subsection (F) as the other provisions of the regulation provide sufficient guidance as to who may be considered an owner.

Proposed subsection (c) has been revised to clarify that when the Department has evidence indicating that an individual qualifies as an owner, then the Department may notify the applicant or licensee that they must disclose the individual or demonstrate the individual does not qualify as an owner.

### **§15004. Financial Interest in a Commercial Cannabis Business.**

This section has been amended to remove proposed subsection (a)(3) which included a person that contracts with the licensee. The Department determined that this example created confusion rather than providing clarity and the other provisions provide sufficient guidance as to who qualifies as a financial interest holder.

### **§15006. Premises Diagram.**

Proposed section 15006(i)(5)(A) has been amended to specify that canopy calculation includes the surface area of each shelf if mature plants are cultivated using a shelving system. This has been moved from existing section 16000(f)(3) but has not substantively changed. It was previously proposed to be repealed but has been added back in for accuracy and clarity.

### **§15014. Fees.**

Proposed section 15014 has been amended to remove the fee for premises modifications for cultivation licensees. The Department determined this was necessary because this would be a new fee for cultivators. The Department has determined that at this time it is important to maintain status quo on fees for cultivation licensees modifying their premises in order to avoid an undue burden on cultivators who have not factored this cost into their operations. This section has also been amended to further clarify that the annual license fee for a cannabis event organizer is based on the number of planned operations during the license period.

### **§15020. Renewal of License.**

Proposed subsection (e)(2) has been moved from this section to section 15048.3 for consistency and clarity because the requirement relates to ordering of tags and not a requirement for renewal.

### **§15027. Physical Modification of Premises.**

This section has been amended to clarify that cultivators are not required to pay a fee for modifications to their premises. This is necessary for consistency with revisions made to fees in section 15014.

### **§15041.1. Branded Merchandise**

Proposed subsection (b) has been amended to provide that after December 31, 2021 branded merchandise must have the license number of the responsible licensee permanently affixed to the outside of the merchandise, legible, and clearly visible from the outside of the merchandise. The amendment is necessary to provide licensees with time to meet the specific requirements in this subsection.

Proposed subsection (c) has been amended to cross-reference and apply the provisions in section 15040(a)(3) related to attractive to children. This is necessary for clarity and consistency in requirements.

### **§15041.2. Trade Samples.**

Proposed subsection (c) has been amended to clarify that live plants and seeds cannot be designated or provided to licensees as trade samples. This was previously in section 15041.7 but has been moved here for clarity. The original proposed language of subsection (c) has been removed as provision of trade samples to employees is addressed in section 15041.6.

Proposed subsection (g) has been amended to allow a licensee-assigned employee number in place of the employee's name. This is necessary to provide licensees and their employees with flexibility in how they meet the requirements of the Act and identify the employee that received the trade sample.

### **§15041.3. Designating Trade Samples.**

Proposed subsection (b) has been amended to remove the requirement that the cannabis goods be in final form at the time of designation and subsection (c) requiring that cannabis goods be labeled as trade samples at the time of designation has been removed. This is necessary because cannabis and cannabis products may be designated by a manufacturer or cultivator as trade samples that will not be in final form for retail sale until they have been labeled and through laboratory testing and quality assurance review at distribution, thus these requirements must be removed for clarity and accuracy. The requirements that trade samples must be in final form and properly labeled before they are provided to a licensee are addressed in section 15041.5.

Section 15041.3 has been renumbered to account for the removal of original subsection (c).

#### **§15041.5. Requirements for Trade Samples.**

Proposed subsection (c) has been amended to add that cannabis goods must be labeled with the statement “TRADE SAMPLE. NOT FOR RESALE OR DONATION. This has been moved from proposed section 15041.3 as this labeling does not have to be completed at time of designation, thus, is more appropriately located in section 15041.5. Original subsection (c) has been renumbered to subsection (d).

Original subsection (d), renumbered to subsection (e) has been amended to clarify that any licensee authorized to engage in distribution activities may transport trade samples. This is necessary to clarify that distributor-transport only licensees in addition to full distribution license may transport trade samples.

Original proposed subsection (e), renumbered to subsection (f), has been amended to specify that vehicles used to transport trade samples that are not registered to the licensee are not required to comply with the requirements of section 15311(g). This is necessary to allow licensees and their employees transporting trade samples in their personal vehicles to avoid having to make modifications to their vehicle to secure a small amount of cannabis goods.

#### **§15048.3. Ordering Tags**

Proposed subsection (c) was added and moved from section 15020(e)(2) for clarity and accuracy. Amendments were made to include reference to section 15020(e), to refer to the article, and to specify that the requirement only applies to cultivation licensees. These amendments are necessary for accuracy, clarity, and consistency.

#### **§15049. Track and Trace Reporting.**

Proposed subsection (e) has been added to specify that if a licensee rejects a partial shipment pursuant to section 15052.1(b), then the licensee must record the partial rejection in the track and trace system. This addition is necessary for consistency with the proposed retention of section 15052.1 to provide licensees with the flexibility to partially reject a shipment in limited circumstances.

#### **§15052.1 Acceptance or Rejection of Shipments**

The Department proposes retaining this section. The Department has determined that this section is necessary to provide licensees with the flexibility to partially reject a shipment in limited circumstances, such as when part of the shipment is damaged in transport.

#### **§15307. Quality-Assurance Review.**

This section has been amended to remove contaminants from subsection (c). This is necessary for consistency within the regulations because at this time contaminants are not required to be listed on a cannabis goods label.

**§15312. Required Transport Vehicle Information.**

This section has been amended to remove the word “new” and the requirement that the licensee provide vehicle or trailer information to the Department prior to using the vehicle or trailer to transport cannabis or cannabis products. The Department has determined that this information maybe provided upon request, thus, it was necessary to remove this language for accuracy and clarity.

**§15315. Distributor Transport Only License.**

This section has been amended to clarify that distributor-transport only licensees may transport trade samples to retail in addition to live plants and seeds. This is necessary for consistency with the sections related to trade samples.

**§15600. Cannabis Event Organizer License.**

Subsection (b) has been amended to include sections 15007, 15027, and 15052.1 as cannabis event organizers are not required to obtain landowner approval, obtain approval for physical modification of premises, or accept or reject shipments of cannabis or cannabis products. These requirements are inapplicable as the cannabis event organizer license does not allow the holder to possess, transport, or sell cannabis or cannabis products. The addition of the sections is necessary for clarity.

**§15719. Residual Pesticides Testing.**

Cannabis has been removed from the title of the last column of the Category II Residual Pesticide Table as this column is only applicable to cannabis products. This change is necessary to account for the change in use of the term cannabis goods.

**§15724. Cannabinoid Testing.**

Subsection (d) has been further amended to remove subsections (d)(1)-(5). These subsections have been deleted because a cross-reference to the product requirements in section 17304 of this division has already been provided and it is duplicative to repeat the requirements here.

**§16201. Cultivation License Types.**

The phrase “or 2,500 square feet or less of total canopy.” The addition of this phrase is necessary to align with the current definition in the Act.

### **§16202. General Cultivation Requirements.**

Proposed section 16202 has been amended to add the requirement that artificial lighting may be used only to maintain immature plants outside the canopy area. The Department determined that this requirement should be moved from the definition of outdoor cultivation to this section for inclusion with general cultivation requirements to provide greater clarity.

### **§16209. Medium Cultivation License Limits.**

Proposed section 16209 has been amended to replace “and” with “or” and change the word owner to singular for clarity as the previous phrasing was confusing and did not match the intent of the regulation.

### **§16311. Supplemental Water Source Information.**

Proposed subsection (a)(3) has been amended to provide greater clarity and align with the Act regarding disclosure by an applicant or licensee of their water source.

### **§17206. Closed-Loop Extraction System Requirements.**

Proposed subsection (h) has been amended to add “and logs,” This is necessary for consistency with the prior subsection which refers to procedures and logs.

### **§17217. Standard Operating Procedures.**

Subsection (a)(6) referring to inventory control procedures has been removed as duplicative of subsection (a)(4). The rest of the section has been renumbered accordingly.

### **§17221. Weighing Devices and Weighmasters.**

Subsection (e) was amended to clarify that a registered service agency is an agency registered pursuant to Business and Professions Code Division 5, Chapter 5.5 to remove ambiguity over the term “registered service agency.” The term “annual” was removed for accuracy because the reference to title 4 of the California Code of Regulations section 4070 includes testing that occurs less regularly than annually.

### **§17225. Product Complaints.**

Proposed subsections (a), (b) and (c) have been amended to specify that licensees are required to review product complaints that are made to them. This change is necessary to clarify which complaints a licensee will be responsible for reviewing.

Proposed subsection (a) has also been amended to clarify that a licensee shall investigate complaints to the extent practicable based on the information it received and on the records it is required to maintain. This change is necessary because a product complaint may not include sufficient information to allow a licensee to conduct a

thorough investigation and the extent and type of investigation a licensee can conduct will vary based on the license type and the information and recordkeeping a licensee is required to maintain.

Proposed subsection (c) defines what a product complaint is and provides examples. This is necessary to provide licensees clarity on what constitutes a product complaint. The examples of product complaints “off taste,” “disintegration time” and “color variation” are proposed to be deleted as these examples are primarily related to manufacturing specifications. This is necessary because this section is now applicable to all licensees.

#### **§17226. Voluntary Recalls.**

Section 17226(a)(4)(B) has the last phrase removed requiring rendering on video surveillance in accordance with section 15044, which provides where and when video surveillance is required. As such, this phrase has been removed.

#### **§17406. Informational Panel Labeling Requirements.**

Proposed subsection (c) has been amended to provide for delayed implementation of the provision that the manufacturer name and contact information may not be fulfilled by use of a supplemental label. This change is necessary to provide licensees an opportunity to use existing packaging that may not meet the regulatory requirement and to provide time for licensees to come into compliance with the new requirement.

#### **§17408. Labeling Restrictions.**

Proposed subsection (a) has been amended for clarity to include reference to city or city and county as those are also origin designates with labeling protection. The term “cultivated” was replaced with “grown” for consistency. Further language was deleted referring to specific geographic boundaries and replaced with more specific language related to county, city, or city and county. This change was made for clarity and consistency.

Proposed subsection (c) was proposed to be amended to clarify the requirement for evidence to support a health-related statement. However, at this time, the Department has determined that it is appropriate to maintain the language currently in regulation for consistency.

#### **§17800. Right of Access.**

Proposed subsection (c) has been removed as duplicative of subsection (a) and the section renumbered accordingly.

#### **§17804. Citation Compliance.**

Originally proposed subsection (a) has been deleted as it replicated a provision contained section 17802(d) and therefore is unnecessary in this section. The remaining subsections have been renumbered accordingly.

#### **§17814. Disciplinary Guidelines.**

Within the disciplinary guidelines, sections 17413-17415 were deleted from the corresponding authority for violations related to failure to comply with packaging and labeling requirements. This change is necessary because the references were included in error and are not current or proposed regulatory sections.

Additionally, reference to Business and Professions Code section 26031.01 in authority for violations related to securing a license by fraud, deceit, or misrepresentation has been deleted as it was not included in existing disciplinary guidelines.

#### **Forms.**

The amended forms were struck out in their entirety and a non-strike out version created for clarity within the package. Minor edits were made to the forms to ensure consistency with the regulatory requirements.

Additionally, DCC-LIC-027 Notifications and Requests Regarding Testing Laboratories (new 9/21) was amended to include instructions related to receipt of accrediting body on-site audit findings by a licensed laboratory, a notification required by section 15735(d).