

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

**Notice Date: June 17, 2022**

**Subject Matter of Proposed Regulations:** Equity fee waivers and deferrals for commercial cannabis licensing fees.

**Sections Affected:** California Code of Regulations, title 4, section 15014.1.

**Notice is hereby given** that the Department of Cannabis Control (Department) proposes to adopt the proposed amended regulation, described below, after considering all comments, objections, and recommendations regarding the proposed action. The Department, upon its own motion or at the request of any interested party, may thereafter adopt the proposals substantially as described below, or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for inspection and copying 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

All the proposed text sections are proposed to be added to the California Code of Regulations (CCR), under Division 19 of Title 4.

**Public Hearing**

The Department will hold a virtual public hearing at the following date and time listed below:

**Tuesday, August 2, 2022 - 10:00 a.m. to 1:00 p.m.**

Attendees may participate via WebEx online meeting platform or telephone conferencing. To participate via WebEx online meeting platform please email Charisse Diaz at [Charisse.Diaz@cannabis.ca.gov](mailto:Charisse.Diaz@cannabis.ca.gov) or (916) 465-9025 by 4:30 p.m. on July 29, to request a link to the meeting. The link to the meeting will also be posted on the Department's website no later than 9:00 a.m. the day of the hearing.

As a reasonable accommodation, limited in-person seating may be available at the hearing in the Department Hearing Room, 2920 Kilgore Road, Rancho Cordova, CA 95670. Attendees must comply with all COVID-19 safety protocols. Please contact Charisse Diaz at [Charisse.Diaz@cannabis.ca.gov](mailto:Charisse.Diaz@cannabis.ca.gov) or (916) 465-9025 by 4:30 p.m. on July 29, 2022, if an accommodation is necessary.

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Participants will be given instructions on how to provide oral comment once they have accessed the hearing. The hearing will proceed on the date noted above until all testimony is submitted or 1:00 p.m., whichever is later. At the hearing, any person may present oral or written statements or arguments relevant to the proposed action described in the Informative Digest. The Department requests, but does not require, that person who make oral comments at the hearing also submit a written copy of their testimony via email.

### **Written Comment Period**

Any interested person, or the interested person's authorized representative, may submit written comments relevant to the proposed regulatory action to the Department. Written comments, including those sent by mail or e-mail, can be sent to the Department at the addresses listed below. **Comments submitted must be received by the Department at its office by 5:00 p.m. on August 2, 2022.**

Submit comments to:

Department of Cannabis Control  
Legal Affairs Division  
2920 Kilgore Road  
Rancho Cordova, CA 95670  
E-mail: [publiccomment@cannabis.ca.gov](mailto:publiccomment@cannabis.ca.gov)

### **Authority and Reference**

BPC section 26249 authorizes the Department to develop and implement a program to provide equity fee relief in the form of waivers and deferrals of required licensing fees. These regulations will implement, make specific, or reference BPC section 26249.

### **Informative Digest / Policy Statement Overview**

The purpose of these regulations is to implement the Department's program for providing equity fee relief in the form of waivers and deferrals of licensing fees. These regulations are necessary to implement the equity fee relief program and clarify and make specific sections of the Medicinal and Adult-Use Regulation and Safety Act (MAUCRSA). (Bus. & Prof. Code, section 26000 et seq.) pertaining to equity fee relief in the form of waivers and deferrals of licensing fees. Additionally, the regulations are necessary to provide assistance to the Department's applicants and licensees that were harmed by the War on Drugs.

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## **Existing Law**

Pursuant to MAUCRSA, the Department regulates commercial cannabis license holders in California, including cultivators, retailers, manufacturers, distributors, testing laboratories, microbusinesses, and temporary cannabis events. Application requirements, fees, and other general requirements for all license types are contained in Chapter 1, Division 19, of Title 4 of the CCR. BPC section 26012 authorizes the Department to collect fees in connection with its regulation of such commercial cannabis activities and BPC section 26180 further establishes a scale of application, licensing, and renewal fees intended to cover the costs of administering MAUCRSA. Additionally, and notwithstanding BPC sections 26012 and 26180, BPC section 26249 requires the Department to implement a fee waiver program by January 1, 2022, and a fee deferral program by January 1, 2023.

The present emergency regulations established the framework for the Department's issuance of fee waivers and were filed with the Office of Administrative Law (OAL) on December 10, 2021. The emergency regulations were approved on December 20, 2021 and filed the same day with the Secretary of State, making them effective immediately. Following the fee waiver program's initiation in January 2022, the Department filed an action with OAL to readopt the emergency regulations. The readoption action was approved by OAL on June 6, 2022, and filed with the Secretary State the same day, keeping them effective immediately.

## **Policy Statement**

This rulemaking action would make permanent fee waiver provisions and implement fee deferrals under the Department's equity fee relief program. The rulemaking would provide an overview of the definitions that are applicable to the equity fee relief regulations. The proposed regulations would also provide an overview of what types of Department applicants and licensees may qualify for equity fee relief and the form of equity fee relief qualified equity applicants and licensees may obtain. Further, the proposed regulation would provide an overview of what constitutes a complete request for equity fee relief. Consistent with BPC section 26249, the proposed regulation would clarify the qualifying criteria that equity applicants and licensees must satisfy to obtain equity fee relief. The proposed regulation would provide clarification regarding the consequences of submitting an incomplete request for equity fee relief. The proposed regulation would clarify that the Department will process requests for equity fee relief in the order in which the application or renewal has been approved by the Department. Moreover, the proposed regulation would clarify the Department's process for considering multiple requests for equity fee relief submitted by a commercial cannabis business. The proposed regulation would clarify that the issuance of fee waivers is subject to available funding and indicate that where funding is unavailable, qualified equity applicants may obtain a fee deferral. Finally, the proposed regulations would provide clarity on the terms and conditions of fee deferrals issued by the Department.

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## Regulation Objectives and Anticipated Benefits of the Proposed Regulations

The broad objectives of these regulations are to provide fee relief to eligible applicants and licensees that were harmed by the War on Drugs. Cannabis prohibition and criminalization had a devastating impact to certain populations and communities in California. Individuals convicted of a cannabis offense and their families suffer the long-term consequences of prohibition and criminalization. Such individuals have a more difficult time entering the regulated commercial cannabis industry due, in part, to a lack of access to capital. Accordingly, the overall objective of the proposed regulations is to provide the process for a commercial cannabis business applicant or licensee to request equity fee relief in the form of waivers and deferrals of licensing fees in accordance with BPC section 26249. Designed to assist people and communities that have been harmed by the War on Drugs, BPC section 26249 facilitates the first statewide cannabis equity fee relief program of its kind in an effort to help disadvantaged cannabis entrepreneurs. Both cannabis businesses in local jurisdictions with local equity programs and those that operate in jurisdictions that do not have local equity programs are eligible for waivers or deferrals of licensing fees from the Department. To be eligible for a fee waiver or deferral from the Department, BPC section 26249 requires applicants and licensees to meet one of the following criteria:

1. The applicant or licensee has previously been convicted for a cannabis related violation;
2. The applicant or licensee has been arrested for a previous cannabis related violation;
3. The applicant or licensee resides in a household whose income is less than or equal to 60 percent of the area median income for the local jurisdiction; or
4. The applicant or licensee resides in an area with a population disproportionately impacted by past criminal system policy.

The proposed regulation would provide specific guidance to potential equity applicants and licensees who wish to obtain equity fee relief by defining “qualified equity applicant or licensee” and “locally verified equity applicant or licensee”. The proposed regulation would specify that commercial cannabis businesses with at least one qualified equity applicant or licensee would be eligible for equity fee relief in the form of one fee waiver during each calendar year and unlimited fee deferrals if they satisfy certain criteria. The proposed regulation would also specify the information that must be included in a request for equity fee relief. The proposed regulation would also specify how an applicant or licensee can demonstrate eligibility. Lastly, the proposed regulation would provide specific outcomes for deficient requests, how the Department will process requests and issue fee waivers and deferrals.

Under the proposed regulation, the Department would be able to grant fee waivers or fee deferrals to certain qualified equity applicants and licensees. The proposed regulation is necessary to provide clear guidance to qualified equity applicants and

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licensees seeking equity fee relief which will reduce the risk of confusion regarding whom may request equity fee relief from the Department.

Additionally, the proposed regulation would provide specific guidance regarding the submittal of requests for equity fee relief, as well as the types of evidence that will be accepted by the Department in support of requests for equity fee relief. Including this information in the regulations will ensure that prospective equity fee relief requestors are aware of submittal requirements and that the Department obtains enough information to make an equity fee relief determination. Moreover, it reduces the risk of confusion for qualified equity applicants and licensees who seek equity fee relief.

The proposed regulation would provide clarity regarding the Department's process for evaluating requests for equity fee relief and the order in which equity fee relief will be considered. The Department anticipates a large number of requests from qualified equity applicants and licensees. Providing clarity regarding how the Department will process equity fee relief requests reduces the risk of confusion for equity fee relief requestors regarding the timing of review and availability of funding.

Offering equity fee relief in the form of waivers and deferrals of licensing fees will further the stated intent of MAUCRSA by reducing barriers to licensure in the regulated commercial cannabis industry by allowing prospective applicants to be able to seek licensure without the need for obtaining large amounts of start-up capital required to pay for licensing fees. This, in turn, will aid the state in its goal of eliminating or reducing the illicit cannabis market by bringing more people into the regulated marketplace. Notably, through the budget process, the Department has already received the budget allocations for the costs associated with the administration of the program.

#### Section 15014.1 Equity Fee Relief

The proposed section would define the terms "qualified equity applicant or licensee" and "locally verified equity applicant or licensee." The proposed section would specify that commercial cannabis businesses with at least one qualified equity applicant or licensee would be eligible for equity relief in the form of one fee waiver during each calendar year and an unlimited number of deferrals if certain criteria are met, such as having a gross revenue less than or equal to \$5,000,000. The proposed section would specify the contents of a request for equity fee relief and the criteria that must be satisfied to receive a waiver or deferral. The proposed section would specify that deficient requests will be denied, but that applicants or licensees may resubmit subsequent requests and that the Department will process requests in the order in which the application or renewal for commercial cannabis licensure is approved by the Department. Lastly, the section would specify that issuance of fee waivers by the Department is subject to available funding. The proposed regulation would also provide the conditions that fee deferrals granted by the Department would be subject to, including repayment within six months of issuance or renewal of the license.

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### **Incorporated by Reference**

There are no documents incorporated by reference.

### **Evaluation of Inconsistency/Incompatibility with Existing State Regulations**

The United States Drug Enforcement Administration (DEA) under the Controlled Substances Act lists cannabis as a Schedule 1 Drug. This means that commercial cannabis activity is illegal under federal law. However, California, through the MAUCRSA and other laws, has decriminalized the cultivation, sale, and possession of cannabis goods for persons aged 21 or older and for medicinal patients.

### **Evaluation of Inconsistency with Federal Regulation Statute**

As required by Government Code section 11346.5(a)(3)(D), the Department has conducted an evaluation of this regulation and has determined that it is not inconsistent or incompatible with existing regulations.

### **Plain English Requirement**

Department staff prepared the proposed regulation pursuant to the standard of clarity provided in Government Code section 11349 and the plain English requirements of Government Code sections 11342.580 and 11346.2, subsection (a)(1). The proposed regulations are written to be easily understood by the persons that will use them.

### **Disclosures Regarding the Proposed Action**

The Department has made the following initial determinations:

Local mandate: There will be no local mandate.

Cost to any local agency or school district requiring reimbursement pursuant to Gov. Code section 17500, et seq.: None.

Any other non-discretionary cost or savings imposed upon local agencies: None.

Cost or savings to any state agency: The Department's staff workload associated with the additional operational activities created by these regulations can be absorbed by existing staff.

Any costs or savings in federal funding to the state: None.

Effect upon housing: There is no effect on housing.

Significant Statewide Adverse Economic Impact Directly Affecting Businesses: The Department has determined there will not be a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

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Small Business Determination: The proposed regulations would affect approximately 8,325 businesses. Of these businesses 4,579 are estimated to meet the criteria for being classified as a small business. The ability to receive fee waivers and deferrals of license fees will likely increase access to licensure.

Cost Impacts on a Representative Private Person or Business: The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

## **Economic Impact and Fiscal Impacts**

### **Business Impact**

The proposed regulation does not impose any new licensure eligibility or operational requirements. Rather, it provides an opportunity for equity applicants and licensees to obtain financial assistance with payment of fees, either through waiver of fees or a longer time to pay through a deferral. Participating in the equity fee relief program is voluntary and only requires submission of information to establish eligibility to be considered for a fee waiver or deferral.

The Department implemented its fee waiver program on January 1, 2022. Based on the information gathered through implementation of the fee waiver program, the Department believes that there are approximately 8,235 applicants and licensees who could be eligible under the Department's proposed equity fee relief program. The businesses impacted by the regulation are qualified equity applicants and licensees who wish to engage in commercial cannabis businesses including cultivators, manufacturers, distributors, retailers, testing laboratories, event organizers, and microbusinesses. As the proposed regulation will increase access to licensure by providing an opportunity for financial assistance to equity licensee and applicants. The Department has determined that it will not have a significant adverse economic impact on businesses.

### **Estimated Costs to Businesses**

The proposed regulation requires applicants and licensees to complete and submit certain information prescribed by the Department to request equity fee relief in the form of a waiver or deferral of licensing fees required by MAUCRSA and its implementing regulations. If the information is submitted electronically, the Department has determined that applicants and licensees will be able to complete and submit the form electronically in a few minutes. As a result, no additional costs to these businesses are anticipated. If the required information is submitted by mail, applicants and licensees will still be able to complete such information in a few minutes, which is not anticipated to increase costs to the business. However, applicants and licensees will incur mail postage costs ranging from \$0.58 (first class) to \$3.75 (certified) per applicant or licensee if submitting by mail. To the extent that the approximately 8,235 applicants and

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licensees opt to submit their request by mail, the total economic impact would range from \$4,776.30 (first class) to \$30,881.25 (certified). However, based on current submission methods utilized by equity applicants and licensees, it is anticipated that most submissions will be made electronically.

### **Estimated Benefits of Regulation**

The proposed regulation would result in benefits to the regulated commercial cannabis industry that are not easily monetized. Under the proposed regulation, qualified equity applicants and licensees will have the opportunity to obtain equity fee relief in the form of a waiver or deferral of licensing fees required by MAUCRSA and its implementing regulations. This will promote increased accessibility to the regulated commercial cannabis market for qualified equity applicants and licensees who have historically been impacted by the long-term consequences of cannabis prohibition and criminalization by reducing barriers to licensure in the regulated commercial cannabis industry.

### **Results of Economic Impact Assessment**

Based on the analysis below, the Department concludes that it is (1) unlikely that the proposal will eliminate any jobs, (2) unlikely that the proposal will create an unknown number of jobs, (3) unlikely that the proposal will create an unknown number of new businesses (4) unlikely that the proposal will eliminate any existing businesses, and (5) unlikely that the proposed regulations will result in the expansion of businesses currently doing business within the state.

The proposed regulations will not have a significant adverse economic impact on businesses. In relation to jobs, the Department does not anticipate any changes in the number of Full-Time Equivalent (FTE) jobs in the commercial cannabis industry, as the proposed regulation relates to assistance with the payment of fees. The proposed regulations would affect approximately 8,235 businesses that are applicants or licensees with the Department. Approximately 55% of these businesses (4,579) are estimated to meet the criteria for being classified as a small business. As described above, the proposed regulation requires licensees to complete and submit certain information prescribed by the Department to request equity fee relief. However, based on current submission methods utilized by equity applicants and licensees, it is anticipated that most submissions will be made electronically. Thus, such applicants or licensees will not incur any costs for the submittal of their requests for equity fee relief.

The proposed regulations are not expected to create or eliminate businesses. Rather, the proposed regulations may encourage expansion of existing licensees or encourage existing businesses to enter the legal commercial cannabis market. The proposed regulations would not affect the ability of businesses in the State to compete.

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### **Benefits of the Proposed Regulations**

The proposed regulations would benefit the health and welfare of California residents by providing benefits to the environment and by increasing availability of tested and regulated commercial cannabis that is safe for consumption and use. The proposed regulations would provide benefits to the State's environment that are not monetized. This may include encouraging more cannabis businesses to enter or remain in the licensed market. To the extent that unlicensed cannabis operations can cause negative environmental impacts, the proposed regulations would provide indirect benefits to the State's environment. In addition, California residents could benefit from the increased availability of tested and regulated commercial cannabis that is introduced to the supply chain. The proposed regulations would not affect worker safety.

### **Fiscal Effect on State Government**

The proposed regulations govern equity applicants and licensees who wish to obtain a fee waiver or fee deferral from the Department, while implementing the statutory requirement for the Department to process requests submitted by such equity applicants and licensees. Processing a request for equity fee relief includes reviewing and analyzing information provided in support of the request, as well as application and licensure materials from the Department's cannabis licensing system to determine whether an equity applicant or licensee is eligible for a fee waiver or fee deferral under the Department's fee waiver program. Through the budget process, the Department has already received budget allocations for the costs associated with the administration of the program.

The proposed regulation requires certain information to be submitted by the equity applicant or licensee requesting a fee waiver or deferral from the Department; this will assist the Department in processing requests as required by the statute but does not alter the Department's workload created by statute. Moreover, the proposed regulation provides clarification regarding the payment terms of fee deferrals granted by the Department; this will ensure that qualified equity applicants may spread their license fee payments over a specified period of time, while ensuring all required fees are still remitted to the Department as required by MAUCRSA. However, simply allowing for fees to be paid at a later date does not alter the Department's workload. Thus, there is no fiscal effect on state government as a result of the proposed regulation.

### **Consideration of Alternatives**

In accordance with Government Code section 11346.5, subdivision (a)(13), the Department must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action or

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would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The Department invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

Set forth below are the alternatives which were considered and the reasons each alternative was rejected:

1. Option 1: Not adopt the regulation. This alternative was rejected because BPC section 26249 requires the Department to develop and implement a program to provide waivers and deferrals for required licensing fees. If the Department does not adopt the regulation, there will be no specific process for applicants and licensees to follow to qualify for waivers or deferrals of required fees and the Department will not fulfill its statutory mandate.
2. Option 2: Do not require a written equity fee relief request from an applicant or a licensee. This alternative was rejected because BPC section 26249 requires that applicants and licensees satisfy certain criteria to be eligible for a fee waiver or deferral. To ensure that fee waiver and deferral requestors satisfy the parameters enumerated in statute, it is necessary to adopt these regulations prescribing a process for determining eligibility. The regulation is also necessary to ensure accurate recordkeeping of each fee waiver and deferral request received by the Department.
3. Option 3: Having cannabis businesses initially apply for a deferral, which may turn into a waiver if certain conditions are met, such as hiring equity employees, supporting community organizations, or supporting equity businesses. This alternative was rejected due to the administrative burden of implementing this option. Moreover, BPC section 26249 requires that applicants and licensees satisfy certain parameters to be eligible for equity fee relief. The Department rejected this option to ensure that equity fee relief requestors satisfy the parameters enumerated in statute.

### **Contact Person**

Inquiries concerning the proposed administrative action may be directed to:

Charisse Diaz  
Department of Cannabis Control, Legal Affairs Division  
2920 Kilgore Road  
Rancho Cordova, CA 95670  
916-465-9025  
[Charisse.Diaz@cannabis.ca.gov](mailto:Charisse.Diaz@cannabis.ca.gov)

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The backup contact person for these inquiries is:

Kaila Fayne  
Department of Cannabis Control, Legal Affairs Division  
2920 Kilgore Road  
Rancho Cordova, CA 95670  
916-251-4544  
[Kaila.Fayne@cannabis.ca.gov](mailto:Kaila.Fayne@cannabis.ca.gov)

Please direct requests for copies of the proposed text (the “express terms”) of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based to the contact persons listed above.

### **Availability of Statement of Reasons, Text of Proposed Regulations, and Rulemaking File**

The Department will have the entire rulemaking file available for inspection and copying, throughout the rulemaking process, at its office at the address above. As of the date this Notice is published in the Notice Register, the rulemaking file consists of this Notice, the proposed text of the regulations, and the Initial Statement of Reasons. Copies of materials may be obtained by contacting Charisse Diaz at the address, email or phone number listed above.

### **Availability of Changed or Modified Text**

After considering all timely and relevant comments received, the Department may adopt the proposed regulations, substantially, as described in this Notice. If the Department makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations, as revised. Please send requests for copies of any modified regulations to the attention of Kaila Fayne at the address, email, or phone number indicated above.

The Department will accept written comments on the modified regulations for at least 15 days after the date on which they are made available.

### **Availability of The Final Statement of Reasons**

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Charisse Diaz at the above address, email, or phone number indicated above.

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### **Availability of Documents on the Internet**

Copies of the Notice of Proposed Action, the Initial Statement or Reasons, and the text of the proposed regulations can be accessed through the Department's website at: [www.cannabis.ca.gov/resources/rulemaking/](http://www.cannabis.ca.gov/resources/rulemaking/).