

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

Notice of Modifications to Text of Proposed Regulations

Subject Matter of Proposed Regulations: Medicinal and Adult-Use Commercial Cannabis Regulations.

Sections Affected: Title 4, California Code of Regulations, sections 15000, 15000.3, 15000.5, 15000.7, 15000.8, 15002, 15002.1, 15006, 15011, 15012, 15023, 15027, 15035, 15039, 15040.1, 15041.1, 15041.3, 15047.1, 15048.5, 15303, 15306, 15307, 15307.2, 15311, 15415, 15417, 15700, 15706, 16202, 16300, 16306, 16308, 16311, 17006, 17117, 17206.1, 17215, 17223, 17300, 17302.1, 17303.1, 17305, 17401, and 17814.

Pursuant to the requirements of Government Code section 11346.8(c) and section 44 of title 1 of the California Code of Regulations, the Department of Cannabis Control (Department) hereby provides notice of changes made to the proposed regulation sections listed above which were the subject of public hearing on March 23 and April 19, 2022. The text of the regulation with proposed modifications is attached to this Notice.

The Department will accept written comments on the proposed changes from July 6, 2022, to 5:00 p.m. on July 22, 2022. All written comments received by 5:00 p.m. on July 22, 2022, will be summarized and responded to in the Final Statement of Reasons.

Please limit your comments to the modifications to the text. Modifications to the text are displayed in either **bold, double underlined** or ~~**bold, double strikethrough**~~ type font.

Written Comment Period

Written comments may be submitted by mail or e-mail to the address listed below.

Comments submitted must be received by the Department at its office by 5:00 p.m. on July 22, 2022.

Submit comments to:

Department of Cannabis Control
Legal Affairs Division
2920 Kilgore Road
Rancho Cordova, CA 95670

E-mail: publiccomment@cannabis.ca.gov

Authority and Reference

Business and Professions Code section 26013 authorizes the Department to adopt these proposed regulations. The proposed regulations implement, interpret, and make specific the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) at Business and Professions Code section 26000 et seq.

Updated Informative Digest

Section 15000. Definitions.

The definition of cannabis concentrate in proposed subsection (h) has been changed to add the word “kief” in place of “separated resinous trichomes of cannabis” for accuracy and consistency. Kief is already defined as the separated resinous trichomes of cannabis, thus the Department determined that using the word “kief” in the definition for cannabis concentrate was more appropriate and consistent with other types of products that are included as examples in the definition. Additionally, butter has been added as an example of cannabis concentrates. The Department regularly receives questions regarding whether cannabis butter is classified as a cannabis concentrate and therefore determined that inclusion as an example in the proposed definition was warranted.

The definition of cannabis goods in proposed subsection (i) has been changed to clarify that cannabis goods must also be packaged and labeled as they will be sold at retail. This edit is necessary for accuracy and consistency of terms used throughout the regulations. The proposed changes distinguish between final form cannabis and cannabis products which are items in the form in which they will be consumed or used but may not yet be packaged or labeled as cannabis goods must be.

The definition of final form in proposed subsection (y) has been changed to clarify that final form refers to cannabis and cannabis products that are in the form in which they will be consumed or used. This edit is necessary for accuracy and consistency of terms used throughout the regulations. The proposed changes distinguish between final form cannabis and cannabis products which are items in the form in which they will be consumed or used but may not yet be packaged or labeled as cannabis goods must be.

The definition of mixed-light cultivation in proposed subsection (ss) has been changed to remove light deprivation. This change is necessary to align with the statutory parameters for mixed-light cultivation found in Section 26061 of the Business and Professions Code (BPC) which includes the use of natural and supplemental artificial lighting but does not include light deprivation. Part two of the definition has been removed because it duplicates part one now that light deprivation has been removed.

The definition of nonmanufactured cannabis goods in subsection (tt) has been changed to replace goods with products. This is necessary for accuracy and consistency in the use of terms throughout the regulations. Additionally, the definition has been changed to add to the list of ingredients that are in a nonmanufactured cannabis product. The

additions are leaf, pre-roll filter tips, and paper. This is necessary for accuracy and clarity as well as consistency with pre-rolls.

The definition of outdoor cultivation in subsection (xx) has been changed to remove light-deprivation. This change is necessary to align with the statutory parameters for outdoor cultivation found in BPC section 26061 which includes outdoor cultivation using no artificial lighting but does not include outdoor cultivation using no light deprivation.

The definition of processing in subsection (eee) has been changed to add sifting. This change is necessary to account for the process of separating the resinous trichomes (kief) from cannabis flower. This edit is necessary because kief is a product that licensed processors may produce, however the definition of processing did not include sifting.

A new definition for terpenes has been added to subsection (ppp). Terpenes is proposed to be defined as terpenes, terpenoids, flavonoids, polyphenols, and other naturally occurring phytochemicals and secondary metabolites contributing to the aroma or flavor of cannabis. This definition is necessary because terms such as terpenes, terpenoids, and flavonoids are regularly used interchangeably to describe phytochemicals and secondary metabolites contributing to the aroma or flavor of cannabis. Additionally, this definition is necessary because the Department is proposing in section 17303.1 to limit what may be in a cannabis product intended for inhalation to cannabis, cannabis concentrate, terpenes, rolling paper, leaf, pre-roll filter tips, or ingredients permitted by the United States Food and Drug Administration. Terpenes was not previously defined, and the Department learned through public comment that use of the word “terpenes” without a definition could lead to the unintended consequence of prohibiting terpenoids, flavonoids, polyphenols, and other naturally occurring phytochemicals and secondary metabolites. The Department did not intend to limit or otherwise distinguish between terpenes and terpenoids, flavonoids, polyphenols and other naturally occurring phytochemicals and secondary metabolites, thus a definition incorporating all was necessary.

Due to the addition of terpenes in subsection (ppp) the remaining subsections have been renumbered accordingly. Additionally, other regulatory sections with cross-references to these subsections have been updated. There were no other changes in the laws related to the proposed action or to the effect of the proposed regulation from the laws and effects described in the Notice of the Proposed Regulatory Action.

Section 15000.3. Premises Requirements.

Proposed section 15000.3 contains the requirements for licensed premises. Proposed subsection (c) was changed to add a clarification regarding a licensee’s ability to use living areas of a private residence for non-commercial cannabis activity such as staff-breaks. Additionally, a clarification regarding which areas of a private residence are not considered to be living areas was added; these areas include garages, offices, sheds, barns, and other areas regularly used for commercial cannabis activity. In review of

comments received during the 45-day comment period, the Department determined that there was significant confusion regarding the intent of this subsection and felt that clarification was necessary. The substance and intent of the subsection has not changed.

Proposed subsection (f) has been changed to remove language regarding structures being permanently affixed to the land and replaced it with language that specifies structures included as part of the premises shall be permanent structures. Additionally, the subsection was changed to provide examples of permanent structures including buildings, barns, sheds, shipping containers, and modular buildings. In review of comments received during the 45-day comment period, the Department determined that there was significant confusion regarding the intent of this subsection and felt that clarification was necessary. Commenters interpreted this section to mean that the Department was prohibiting the use of shipping containers and modular buildings. The Department never intended for such a prohibition; thus, clarification was necessary. The substance and intent of the subsection has not changed.

Proposed subsection (g) has been changed to add an exception to the prohibition of personal cultivation of cannabis on a licensed premises. The Department received public comments during the 45-day comment period from commenters who are required by their local jurisdiction to include their entire land parcel in their premises and would therefore have no options for cultivating cannabis for personal use as allowable under Health and Safety Code section 11362.1. To ensure fairness under the law, the subsection has been changed to allow for personal cultivation on a licensed premises in such circumstances provided the personal cultivation is conducted separately and distinctly from commercial cultivation.

There were no other changes in the laws related to the proposed action or to the effect of the proposed regulation from the laws and effects described in the Notice of the Proposed Regulatory Action.

Section 15000.5. Licensee's Responsibility for Acts of Employees and Agents.

The proposed section was changed to remove gender specific language and replace it with gender neutral language. There were no changes to the substance of the section.

There were no other changes in the laws related to the proposed action or to the effect of the proposed regulation from the laws and effects described in the Notice of the Proposed Regulatory Action.

Section 15000.7. Storage of Inventory.

Proposed section 15000.7 contains the general requirements for storage of inventory. Proposed subsection (c) was changed to remove break rooms from the requirement that there be solid walls separating certain areas from storage areas. As revised only bathrooms and changing rooms would be required to be separated by solid walls

extending from floor to ceiling. Break areas, if any, would be required to be separate and distinct from areas where cannabis and cannabis products are stored. The Department received public comments objecting to the requirement that break areas be separated by solid walls. The Department determined that appropriate separation between break areas and storage areas could be achieved without the need for solid walls.

Proposed subsection (d) has been amended to clarify that additional shipping containers may be used as temporary storage. The Department received public comments that indicated confusion regarding the use of storage containers. Commenters interpreted this section to mean that the Department was only permitting storage container use on a temporary basis which is inaccurate. Licensees are allowed to use shipping containers as part of their premises. The intent of this subsection was to allow licensees to add on additional shipping containers at any time their storage needs exceed their available space. The intent and substance of this subsection have not changed.

There were no other changes in the laws related to the proposed action or to the effect of the proposed regulation from the laws and effects described in the Notice of the Proposed Regulatory Action.

Section 15000.8. Appellations of Origin.

Subsection (c) of this proposed section has been changed to correct a grammatical error. There were no changes to the substance of the section.

There were no other changes in the laws related to the proposed action or to the effect of the proposed regulation from the laws and effects described in the Notice of the Proposed Regulatory Action.

Section 15002. Annual License Application Requirements.

Section 15002 contains the requirements for annual licensure. Proposed subsection (c)(5) has been added to include assessor parcel number as an option for the physical address of the premises. This change is necessary for alignment with current practices of accepting an assessor parcel number as a physical address of a premises as this is often the only means of identifying the physical location of the property. Conforming grammatical edits were also made. There were no changes to the substance of this subsection.

Proposed subsection (c)(16)(J) has been changed to remove the requirement for acceptable government-issued identification to include height. This change was necessary to accommodate passports, which generally do not contain a person's height. Additionally, passport was added as an example of acceptable forms of identification and a grammatical edit was made.

There were no other changes in the laws related to the proposed action or to the effect of the proposed regulation from the laws and effects described in the Notice of the Proposed Regulatory Action.

Section 15002.1. Temporary Cannabis Event Application.

This section contains the requirements for a temporary cannabis event application. Proposed subsection (b)(3) has been changed to add to the requirement to provide the address where the temporary event will occur, that if no address exists, the accessor parcel number or street description may be provided. This is necessary to clarify how applicants may comply with this requirement when a location does not have a corresponding address.

Proposed (b)(10) has been divided into two subsections and the remaining subsections have been renumbered accordingly. No substantive changes were made to these subsections.

There were no other changes in the laws related to the proposed action or to the effect of the proposed regulation from the laws and effects described in the Notice of the Proposed Regulatory Action.

Section 15006. Premises Diagram.

Proposed section 15006 contains the requirements for the premises diagram that must be submitted as part of an application. Proposed subsection (b) has been changed to provide greater clarity regarding the dimensions that must be included on a premises diagram. As is now specified, the Department must have dimensions of the boundaries of the premises and structures to the extent necessary to allow for clear identification of the bounds of the premises. As previously written, the regulation could be interpreted as requiring dimensions for all aspects of the diagram, thus the change is necessary to provide greater clarity to applicants and streamline the application process.

Proposed subsection (e) has been changed to add that the extent to which the diagram is to scale shall be the extent necessary to clearly determine the bounds of the premises. This change makes clear that the diagram need not be precisely to scale and is necessary to provide greater clarity to applicants and streamline the application process.

Proposed subsection (h)(5) parts (A) and (B) have been changed to clarify that for canopy areas and areas of immature plants outside the canopy, the applicant must provide dimensions in feet and aggregate square footage. This clarification is necessary because cultivation license types are categorized in part by their canopy size, thus the Department must have accurate dimensions to ensure the right license type is issued.

Proposed subsection (h)(5)(H) has been changed to clarify that designated harvested cannabis storage areas may not be shared among multiple licenses held by one licensee. Harvest areas are currently not allowed to be shared as licensees must have a

processor license to combine harvests from multiple licenses. However, this subsection did not restate that prohibition as other parts of the subsection so specify. This change is necessary to provide clarity within this section regarding which spaces may be shared and makes the parts of the subsection consistent.

There were no other changes in the laws related to the proposed action or to the effect of the proposed regulation from the laws and effects described in the Notice of the Proposed Regulatory Action.

Section 15011. Additional Information.

Proposed section 15011 contains license type specific application requirements. Proposed subsection (a)(1) has been changed to add that applicants for a license to cultivate may include, with their hours of operation, annual scheduled closure periods for their site. This change is necessary to clarify how licensees may communicate an annual scheduled closure period for their cultivation site to the Department. Many outdoor cultivators do not have any activity occurring on their premises during their off season and thus do not have anyone on site. This change provides a way for licensees to convey closure periods to the Department if they have such periods but does not require anything of licensees who do not have closure periods or who do not know what their closure period will be.

There were no other changes in the laws related to the proposed action or to the effect of the proposed regulation from the laws and effects described in the Notice of the Proposed Regulatory Action.

Section 15012. Incomplete and Abandoned Applications.

Proposed section 15012 contains the provisions regarding incomplete and abandoned applications. Proposed subsection (a) has been changed to add email as an allowable means for the Department to issue written notice to an applicant. This change is necessary to provide the Department and applicants with an additional means of providing and receiving notice. Currently the Department serves other regulatory notices by mail, email, and through the licensing system, thus the addition of email here is consistent with other sections of the Department's regulations.

There were no other changes in the laws related to the proposed action or to the effect of the proposed regulation from the laws and effects described in the Notice of the Proposed Regulatory Action.

Section 15014. Fees.

Section 15014 provides the fees collected by the Department and paid by applicants and licensees. Proposed subsection (e) contains a typographical change.

There were no other changes in the laws related to the proposed action or to the effect of the proposed regulation from the laws and effects described in the Notice of the Proposed Regulatory Action.

Section 15023. Business Modifications.

Section 15023 contains the requirements for making business modifications on a license. Proposed subsection (c)(1) contains a change to replace gender specific language with gender neutral language. The subsection has also been changed to clarify that following a change in ownership, the former owner's inventory shall be transferred to the new owner's track and trace account upon issuance of the license. This change is necessary to clarify how inventory will be transferred to the new owner's track and trace account. In reviewing proposed track and trace regulations in this rulemaking the Department determined that the regulations did not make clear how existing inventory may be transferred to a new owner in case of a sale of the business. In order to provide clarity and specificity the Department determined that including the provision in this section with the other requirements for change in ownership was appropriate.

Section 15027. Physical Modification of Premises or Operations.

Section 15027 contains requirements related to modifications of premises or operations. Proposed subsection (f) contains changes to allow all licensees, rather than only cultivators, the option of submitting a request for approval of a physical change, alteration, or modification through the licensing system or by submitting form DCC-LIC-027 via email. The Department has been developing its licensing systems' functions and is now able to allow all licensees to submit requests through the licensing system, thus clarification is necessary.

Additionally, proposed subsection (h) has been changed consistent with subsection (f) to allow licensees to now submit notifications of changes, alterations, or modifications to a licensed premises or the licensee's operations that do not require prior approval through the online licensing system or by submitting form DCC-LIC-027 via email.

Section 15035. Notification of Criminal Acts, Civil Judgments, Violations of Labor Standards, and Revocation of a Local License, Permit, or Other Authorization After Licensure.

Proposed subsection (d) requires a licensee to notify the Department of the revocation of a local license, permit, or other authorization. The subsection has been changed to also require notification for the revocation of a local, license, permit, or other authorization held by the licensee or any owner in their individual capacity. This change is necessary to align the language of the subsection with the intent of this subsection which is to require the licensee to notify the Department if any person who has control of the licensed operations has had a local license, permit, or other authorization

revoked. Licensees are not required to hold their licenses under the same name at the local and state level. Licensees may have a license held under one name at the local level and another name at the state, thus this change is necessary to accurately account for all situations in which a person responsible for the state license has been subject to a revocation at the local level. This change also aligns this subsection with the other subsections in this section which require notifications for actions taken against the licensee or any owner in their individual capacity.

There were no other changes in the laws related to the proposed action or to the effect of the proposed regulation from the laws and effects described in the Notice of the Proposed Regulatory Action.

Section 15039. License Posting Requirements.

Section 15039 contains the requirements related to posting a physical copy of the license on the licensed premises. Proposed subsection (a) contains a grammatical change.

There were no other changes in the laws related to the proposed action or to the effect of the proposed regulation from the laws and effects described in the Notice of the Proposed Regulatory Action.

Section 15040.1. Marketing Cannabis Goods as Alcoholic Products.

This section contains the prohibition on marketing cannabis goods as alcoholic products. The section previously stated that distributor and retailer licensees shall not sell or transport cannabis goods that are labeled as beer, wine, liquor, spirits, or any other term that may create a misleading impression that the product is an alcoholic beverage. The section was consistent with BPC section 26070.2 which prohibits a licensee from selling, offering, or providing a cannabis product that is an alcoholic beverage. However, these requirements do not apply to manufacturers who may unknowingly be producing a product that ultimately cannot be sold or distributed. This inconsistency in the supply chain creates problems for the industry including increases in costs for remediation, new packaging and labeling, destruction, and lost revenue. The proposed changes would apply the section to all licensees and change the section to state that licensees shall not market, advertise, sell, or transport cannabis goods that are labeled as beer, wine, liquor, spirits, or any other term used to describe a type of alcohol or alcoholic beverage. The proposed changes are necessary to hold all licensees to the same standards and to ensure that all licensees have adequate guidance on the products that may ultimately be sold at retail and thus avoid costly remediation or destruction of noncompliant products.

This section also contains a change to clarify that nothing in the section should be interpreted as prohibiting a company or brand name associated with alcoholic beverages from appearing on cannabis goods or in marketing and advertisements for cannabis goods provided the cannabis goods do not create a misleading impression

that the product is an alcoholic beverage. This clarification is necessary because companies lawfully operate within the cannabis and alcohol industry simultaneously. There is nothing in the law that prohibits alcohol companies from lawfully operating within the cannabis industry provided the products are not marketed as both cannabis products and alcoholic beverages.

There were no other changes in the laws related to the proposed action or to the effect of the proposed regulation from the laws and effects described in the Notice of the Proposed Regulatory Action.

Section 15041.1. Branded Merchandise.

Proposed section 15041.1 contains the requirements for branded merchandise. Proposed subsection (b) has been changed to remove the past date of December 31, 2021. There were no substantive changes to the section.

There were no other changes in the laws related to the proposed action or to the effect of the proposed regulation from the laws and effects described in the Notice of the Proposed Regulatory Action.

Section 15041.3. Designating Trade Samples.

Proposed section 15041.3 contains the requirements for designating trade samples. Proposed subsection (c) has been changed to allow for the designation of a trade sample to be changed to medicinal donation. The Department determined that creating an exemption to allow for trade samples to be redesignated as medicinal donations would encourage such donations by providing licensees with an option, other than destruction, for undistributed trade samples which also protects public health and safety.

There were no other changes in the laws related to the proposed action or to the effect of the proposed regulation from the laws and effects described in the Notice of the Proposed Regulatory Action.

Section 15047.1. Definitions.

Section 15047.1 contains the definitions relevant to the track and trace system requirements. Proposed subsection (a) contains the definition of plant tag which has been changed to remove “RFID-enabled” as an identifier. The Department has determined that plant tags may be RFID-enabled but are not required to be, thus identifying plant tags as RFID-enabled is inaccurate.

There were no other changes in the laws related to the proposed action or to the effect of the proposed regulation from the laws and effects described in the Notice of the Proposed Regulatory Action.

Section 15048.5. Use of Harvest Batch Name and Package Tags.

Section 15048.5 contains the requirements for identifying harvested plants by batch name and package tag. Proposed subsection (c) has been changed to remove a repeated word. The substance of the section has not been changed.

There were no other changes in the laws related to the proposed action or to the effect of the proposed regulation from the laws and effects described in the Notice of the Proposed Regulatory Action.

Section 15303. Packaging, Labeling, and Rolling.

Section 15303 contains the requirements related to packaging, labeling, and rolling activities conducted by a licensed distributor. Subsection (b) is proposed to be changed to clarify that pre-rolls must be packaged and labeled prior to regulatory compliance testing. This change is necessary to align with requirements in chapter 6 for the sampling of pre-rolls for regulatory compliance testing. Licensed laboratories must sample from pre-roll batches that are packaged and labeled; however, Department staff routinely find distributors are unaware of the requirement as it is in the regulatory chapter pertaining to testing laboratories. This uncertainty can lead to distributors incurring higher costs for compliance testing as laboratories are unable to sample on the first visit due to the pre-rolls not being packaged and labeled. To avoid continued confusion and increased testing costs, the Department determined that the requirement should be included in this section. The change provides clarity to licensed distributors regarding the requirement that pre-rolls be packaged and labeled prior to regulatory compliance testing and is therefore necessary.

There were no other changes in the laws related to the proposed action or to the effect of the proposed regulation from the laws and effects described in the Notice of the Proposed Regulatory Action.

Section 15306. Regulatory Compliance Testing Results.

Section 15306 contains the requirements for cannabis and cannabis products post-regulatory compliance testing. In consolidating and streamlining regulatory requirements for all licensees, the Department inadvertently proposed removing the timeframes for destroying a batch that cannot be remediated. The Department determined that a timeframe is necessary to provide clear guidance to licensees regarding when a batch that has failed testing and may not be remediated must be destroyed. As such the department has specified that a batch must be destroyed within 60 days of failure of the batch or 30 days of receiving notification from the Department that the batch may not be remediated. The proposed timeframes are consistent with the previously included timeframes and provide licensees with clear direction.

There were no other changes in the laws related to the proposed action or to the effect of the proposed regulation from the laws and effects described in the Notice of the Proposed Regulatory Action.

Section 15307. Quality-Assurance Review.

Section 15307 contains requirements related to the quality-assurance review a licensed distributor must conduct on cannabis goods. Subsection (h)(1) contains the provisions related to relabeling of cannabis goods by a distributor. The subsection has been changed to replace the word remediated with relabeled. This change is necessary because the act of relabeling a cannabis good is more accurately reflected by the term relabeled than remediated. Subsection (h)(2) specifies the requirements for distributors when cannabis goods must be remediated by a manufacturer because the cannabis goods must be repackaged or reprocessed. This subsection has been changed to add the clarifying language “because they must be repackaged or reprocessed.” This change does not change the substance of the regulations but provides further clarity.

There were no other changes in the laws related to the proposed action or to the effect of the proposed regulation from the laws and effects described in the Notice of the Proposed Regulatory Action.

Section 15307.2. Licensed Distributor to Distributor Transfers.

Section 15307.2 provides the parameters for distributor-to-distributor transfers. Proposed subsection (c) has been changed to include a cross-reference to section 17305. This is necessary for clarity and to provide clear guidance to licensees.

There were no other changes in the laws related to the proposed action or to the effect of the proposed regulation from the laws and effects described in the Notice of the Proposed Regulatory Action.

Section 15311. Requirements for the Transportation of Cannabis and Cannabis Products.

Section 15311 contains the requirements for the transportation of cannabis and cannabis products. Proposed subsection (e) has been changed to make terms gender-neutral. There were no substantive changes to this section.

There were no other changes in the laws related to the proposed action or to the effect of the proposed regulation from the laws and effects described in the Notice of the Proposed Regulatory Action.

Section 15415. Delivery Employees.

Section 15415 contains requirements related to delivery employees. Proposed subsection (c) has been changed to make terms gender-neutral. Proposed subsection

(d) has been changed to require delivery employees to return to the licensed premises after their last delivery only if they have any unsold cannabis goods. Cannabis goods may only be stored on a licensed premises; thus, the Department cannot permit a delivery employee to take unsold cannabis goods home. However, if there are no cannabis goods to return to the licensed premises, then the Department has determined that there is no reason for the Department to require the delivery employee to return to the premises. Licensees may still choose to have their employees return to the premises if they wish. This change provides licensees with flexibility in determining operations that work for their business and still protects public health and safety by ensuring unsold cannabis goods are returned to the licensed premises for proper storage.

There were no other changes in the laws related to the proposed action or to the effect of the proposed regulation from the laws and effects described in the Notice of the Proposed Regulatory Action.

Section 15417. Delivery Vehicle Requirements.

Section 15417 contains the requirements for delivery vehicles. Proposed subsection (b) has been changed to correct a typographical error. No substantive changes were made to this section.

There were no other changes in the laws related to the proposed action or to the effect of the proposed regulation from the laws and effects described in the Notice of the Proposed Regulatory Action.

Section 15700. Definitions.

Section 15700 contains the definitions applicable to chapter 6 which provides requirements for testing laboratories.

Subsection (rrr) contains the definition for total THC and has been changed to incorporate delta 8 THC into the definition and equation. This change is necessary to address products that have delta 8 THC and to provide testing laboratories with the proper method for calculating total THC. Testing laboratories currently test for delta 8 THC, however they have not had specific direction from the Department regarding how to include it in the calculation for total THC. It is important for testing laboratories to have a clear definition and equation for calculating total THC as the euphoric effects of cannabis are increased as the amount of total THC increases. For purposes of protecting public health and safety it is important that the total THC calculations accurately reflect the amount of total THC in a product, thus delta 8 must be included in the calculation.

There were no other changes in the laws related to the proposed action or to the effect of the proposed regulation from the laws and effects described in the Notice of the Proposed Regulatory Action.

Section 15706. Chain of Custody (COC).

Section 15706 contains the requirements for the laboratory's COC protocol. Subsection (b)(4) requires the name, premises address, and license number for the licensee that produced the batch being sampled. The subsection has been changed to add licensed distributors to the list of licensees that may have produced the batch. This is necessary because distributors may be the owner and responsible licensee of a batch. Licensed laboratories currently include licensed distributors on their COC for the sake of accuracy, however the regulations did not specifically list distributors. This change aligns the regulatory text with current practice and provides clear guidance for licensees.

There were no other changes in the laws related to the proposed action or to the effect of the proposed regulation from the laws and effects described in the Notice of the Proposed Regulatory Action.

Section 16202. General Cultivation Requirements.

Section 16202 contains the general requirements for cultivation of cannabis. Proposed subsection (b) has been changed to remove the prohibition on outdoor cultivation licensees using light deprivation. This change is necessary to align with the statutory parameters for outdoor cultivation found in BPC section 26061 which includes outdoor cultivation using no artificial lighting but does not include outdoor cultivation using no light deprivation.

There were no other changes in the laws related to the proposed action or to the effect of the proposed regulation from the laws and effects described in the Notice of the Proposed Regulatory Action.

Section 16300. Cultivation Requirements.

Section 16300 contains the requirements for cultivation. The title of the section has been changed to remove the types of cultivation licenses as they do not add anything and make the title of the section overly long and complicated. Additionally, a grammatical change was made in proposed subsection (a). No substantive changes have been made.

There were no other changes in the laws related to the proposed action or to the effect of the proposed regulation from the laws and effects described in the Notice of the Proposed Regulatory Action.

Section 16306. Generator Requirements.

Section 16306 contains the requirements for generator use by cultivators. Proposed subsection has been changed to correct the format of the citation to title 17 and to include the commonly used name of "diesel engine" in the definition of generator. This

change is necessary to provide clarity regarding terms that mean the same thing and are regularly used interchangeably. The substance of the section has not changed.

There were no other changes in the laws related to the proposed action or to the effect of the proposed regulation from the laws and effects described in the Notice of the Proposed Regulatory Action.

Section 16308. Canopy Requirements.

This section contains requirements for the canopy areas on cultivation sites. Proposed subsection (c) has been added to clarify that cultivators may utilize canopy areas to produce seeds for use by that licensee. This clarification is necessary to provide accurate guidance to cultivators regarding which areas of their cultivation sites may be used for the production of seeds to be used on the site.

There were no other changes in the laws related to the proposed action or to the effect of the proposed regulation from the laws and effects described in the Notice of the Proposed Regulatory Action.

Section 16311. Supplemental Water Source Information.

Section 16311 contains the requirements for information that must be provided with the application regarding the source of water for cultivation activities. Proposed subsection (a) contains the requirements for retail water supply sources. Proposed subsection (a)(1)(B) has been changed to add that in addition to a copy of the most recent water service bill, an applicant may provide written documentation from the water supplier stating that service will be provided at the premises address. This change is necessary for accuracy as the Department has found in some cases it is impossible for the applicant to comply with the requirement. In such cases the Department must waive the current requirement and accept other documentation in lieu of a water service bill, thus the change is necessary to align with current practice and provide clarity on acceptable documentation to applicants.

Proposed subsection (c) has been changed to add part (4) which requires the location coordinates of the rainwater catchment infrastructure in either latitude and longitude or the California Coordinate System. This is necessary for the Department to have complete information regarding the applicant's water source. Accurate information regarding water is necessary for the Department to determine whether an applicant is in compliance with important environmental laws such as CEQA and laws governing water use and conservation.

Subsection (d) has been changed to remove part (2) as the applicability of the subsection has expired.

There were no other changes in the laws related to the proposed action or to the effect of the proposed regulation from the laws and effects described in the Notice of the Proposed Regulatory Action.

Section 17006. Manufacturing License Types.

Section 17006 contains the types of manufacturing licenses. Proposed subsection (a) has been changed to replace the cross reference to the definitions. This is necessary for accuracy section 15000, which contains the definitions, has been renumbered.

There were no other changes in the laws related to the proposed action or to the effect of the proposed regulation from the laws and effects described in the Notice of the Proposed Regulatory Action.

Section 17117. License Constraints.

Section 17117 contains constraints on activities that may be conducted by a licensed manufacturer. Proposed subsection (b) has been changed to allow licensed manufacturers to provide non-cannabis infused product samples to all licensees, with the exception of cultivators, distributors transport only, testing laboratories, and cannabis event organizers, rather than only other manufactures. This change is necessary because the Department determined licensed manufacturers may need to provide such samples to induce distributors, retailers, and microbusinesses to carry their products by demonstrating flavor profiles and other characteristics of the products without the euphorogenic effects that may come from cannabis.

There were no other changes in the laws related to the proposed action or to the effect of the proposed regulation from the laws and effects described in the Notice of the Proposed Regulatory Action.

Section 17206.1. Certification of Closed-Loop Systems.

Section 17206.1 contains the requirements for closed-loop systems used by licensed manufacturers in the production of cannabis products. Proposed subsection (e) requires the licensee to have the system recertified when it is modified in a manner that changes its operation. The wording of the subsection has been changed to provide greater clarity by stating that the system needs to be recertified when it is modified in a manner such that its operation no longer conforms to the original equipment manufacturer specifications. The intent of the subsection has not changed; however, the wording has been changed to be more specific and provide greater clarity and guidance to licensed manufacturers that may be modifying their closed-loop systems. This change is necessary as such systems, if not properly handled, may cause harm to workers and others. Having regulatory language that clearly conveys the intent ensures that licensees are able to understand and follow the requirements.

There were no other changes in the laws related to the proposed action or to the effect of the proposed regulation from the laws and effects described in the Notice of the Proposed Regulatory Action.

Section 17215. Master Manufacturing Protocol.

Section 17215 contains the requirements for the master manufacturing protocol that must be established for each cannabis product manufactured by the licensee. Proposed subsection (b)(7) has been changed to specify that the protocol must contain whether the cannabis product will leave the premises in final form and packaged and labeled as it will be sold at retail. The subsection previously only referenced final form. However, the change is necessary to align with changes made in section 15000 to the definitions of cannabis goods, final form, and nonmanufactured cannabis products.

There were no other changes in the laws related to the proposed action or to the effect of the proposed regulation from the laws and effects described in the Notice of the Proposed Regulatory Action.

Section 17223. Waste Management.

Section 17223 contains the regulatory provisions for cannabis waste. The section has been changed to replace gender-specific terms with gender-neutral terms. The substance of the section has not changed.

There were no other changes in the laws related to the proposed action or to the effect of the proposed regulation from the laws and effects described in the Notice of the Proposed Regulatory Action.

Section 17300. Prohibited Products.

Section 17300 contains the types of products that may not be sold as cannabis goods. The section contains changes to replace the term cannabis good with the term cannabis product for accuracy and consistency with terms used throughout this division.

Proposed subsection (n) has been changed to clarify that the prohibition on an inhalable cannabis product that is delivered into the lungs through a metered-dose inhaler or dry-powder inhaler does not apply to other types of dry-powder cannabis products or metered-dose vaporizers containing cannabis or cannabis oil. This clarification is necessary because the Department determined that there was confusion regarding the applicability of this section to various products. The Department intended to prohibit products that mimic medical inhalers as such products may cause harm if mistakenly used by a patient. However, other dry-powder cannabis products and metered-dose vaporizers do not pose the same threat and were not intended to be prohibited, thus clarification is necessary.

There were no other changes in the laws related to the proposed action or to the effect of the proposed regulation from the laws and effects described in the Notice of the Proposed Regulatory Action.

Section 17302.1. Additional Requirements for Tinctures.

Section 17302.1 contains requirements for tinctures. Proposed subsection (b) has been changed to replace the cross reference to the definitions. This is necessary for accuracy section 15000, which contains the definitions, has been renumbered.

There were no other changes in the laws related to the proposed action or to the effect of the proposed regulation from the laws and effects described in the Notice of the Proposed Regulatory Action.

Section 17303.1. Additional Requirements for Inhaled Products

Section 17303.1 contains additional requirements for inhaled products. The section has been changed to remove the qualifier that terpenes be botanically derived. Consistent with the addition of a definition of terpenes in section 15000, subsection (ppp), the Department has amended this section for alignment of terms. Terpenes was not previously defined, and the Department learned through public comment that use of the word “terpenes” without a definition could lead to the unintended consequences of prohibiting terpenoids, flavonoids, polyphenols, and other naturally occurring phytochemicals and secondary metabolites. The Department did not intend to limit or otherwise distinguish between terpenes and terpenoids, flavonoids, polyphenols and other naturally occurring phytochemicals and secondary metabolites, thus a definition incorporating all was necessary. Additionally, this section has been changed to add pre-roll filter tips as allowable components in inhaled products. This change is necessary because filter tips are often included with pre-rolls and the Department did not intend to exclude them.

There were no other changes in the laws related to the proposed action or to the effect of the proposed regulation from the laws and effects described in the Notice of the Proposed Regulatory Action.

Section 17305. Failed Cannabis Product and Harvest Batches.

Section 17305 contains the requirements for remediation of failed batches. Proposed subsection (e) requires certain information be submitted with a request to remediate a batch. Proposed subsection (e) has been changed to add a requirement for provision of the UID of the batch, the size of the batch, and email address of the contact person for the remediation. The UID and size are necessary for Department staff to readily identify that failed batch that the licensee is requesting to remediate. Such information will assist Department staff in assessing the request and will streamline the process reducing the wait time for licensees to receive a response. The email address is necessary as most communications regarding remediation occur through email.

There were no other changes in the laws related to the proposed action or to the effect of the proposed regulation from the laws and effects described in the Notice of the Proposed Regulatory Action.

Section 17401. Release to Distributor as finished Product.

Section 17401 provides the parameters for when a cannabis product may be released to a distributor as a finished product. This section has been changed to correct a grammatical error.

There were no other changes in the laws related to the proposed action or to the effect of the proposed regulation from the laws and effects described in the Notice of the Proposed Regulatory Action.

Section 17814. Disciplinary Guidelines

This section incorporates by reference the Department's Disciplinary Guidelines. Section III, subsection A provides the three tiers of disciplinary action for all license types except cultivation.

In Tier 1, the authority for the violation of failing to confirm customer age has been changed to add subsection (a) to section 15402 to align with the section which includes the requirement to verify customer age in subsection (a). A violation for failure to comply with provisions related to customer access to the retail area with the authority of section 15402, subsections (b)-(d) has been added to more accurately capture subsections (b)-(d) of section 15042 which provide the requirements for customer access to the retail area. The violation description for providing free cannabis goods or accessories has been changed to "Failure to Comply with Requirements for Providing Free Cannabis Goods to Medicinal Consumers" to align with the provisions of section 15411.

In Tier 2 violation descriptions for including non-permanent structures as part of the licensed premises pursuant to section 15000.3, subsection (f) has been added to the Disciplinary Guidelines as this is a new provision that the Department has determined should be included in the Disciplinary Guidelines as it provides additional clarity to licensees and applicants regarding the discipline they will face for violating this provision. Similarly, the Department has included a violation description for personal cultivation of cannabis on the licensed premises pursuant to section 15000.3, subsection (g). The Department has also added additional violation descriptions for sections related to manufacturing. The Department determined that additional manufacturing violation descriptions would provide further guidance to licensees regarding the discipline they will face for violating these provisions. As the Disciplinary Guidelines were new for manufacturers under the adopted emergency regulations, the Department determined inclusion of more violation descriptions would provide greater guidance to licensed manufacturers. As such, the Department has changed the authority for failing to comply with good manufacturing practices to add sections 17300-17303.1. as these sections also provide the authority for this violation. The Department also added a violation description for failure to comply with special requirements for juice manufacturing and dried meat manufacturing pursuant to sections 17219-17220 and a violation description for failure to comply with requirements on THC concentration limits pursuant to section 17304.

In Tier 3, the Department has added failure to comply with the independence of testing laboratory requirements under 15004.1. This is necessary as this proposed new section contains the requirements for a testing laboratory to maintain independence from all other license types. The Department determined this section should be added and specifically identified as a Tier 3 violation as maintaining the integrity and independence of licensed testing laboratories is critical for protecting public health and safety through reliable testing results generated by independent testing laboratories. Additionally, the Department changed the authority for failure to provide access to the premises to add section 15000.3(d) for accuracy as this section also specifies licensees must provide the Department with access to their licensed premises.

Subsection B of Section III contains the violations and fine amounts for cultivation licensees. Table A has been changed to add violation descriptions for including non-permanent structures as part of the licensed premises pursuant to section 15000.3, subsection (f). As discussed above, this is a new provision, thus the Department determined that including it in the Disciplinary Guidelines provides additional clarity to licensees and applicants regarding the discipline, they will face for violating this provision. Similarly, the Department has included a violation description for personal cultivation of cannabis on the licensed premises pursuant to section 15000.3, subsection (g). The Department has removed the description of violation related to including on the premises diagram an administrative hold area for segregating cannabis and cannabis products subject to an administrative hold. This change is consistent with the removal of this requirement from section 15006. The description of violation related to waste has been amended to replace gender specific language with gender neutral language. The Department has removed the description of violation for using light deprivation at an outdoor cultivation site. The Department has removed the prohibition on using light deprivation as it is not consistent with statute. Additionally, the Department removed primary panel from failure to comply with labeling requirements for accuracy and added failure to comply with canopy requirements pursuant to section 16308 to provide licensees with specific guidance regarding violations for failure to comply with canopy. The Department also changed the word dispose to maintain in the violation regarding maintaining cannabis waste in a secured waste receptacle. The Department also added “failed” for clarity in the violation for failure to comply with disposal requirements for failed batches. In the violation for transporting or receiving cannabis without access to the track and trace system, the Department has replaced transferred with “initiated transport, or received any” for greater accuracy. Lastly, consistent with edits made in Section A for non-cultivation licensees, the Department added section 15000.3(d) to the authority for failure to provide access to the premises to for accuracy as this section also specifies licensees must provide the Department with access to their licensed premises.

In Table B the Department added section 17800 as authority for violations related to provision of records to the Department and provision of access to examine records for accuracy as this section contains these violations. Additionally, the Department

removed the phrase “on the licensed premises” from record keeping violations as licensees are required to be able to access and produce records from the licensed premises but are not required to have physical records on the premises. This change recognizes that many licensees maintain their records electronically such as through cloud-based storage.

There were no other changes in the laws related to the proposed action or to the effect of the proposed regulation from the laws and effects described in the Notice of the Proposed Regulatory Action.

Incorporated by Reference

The following documents are incorporated into the regulations by reference:

Department of Cannabis Control Disciplinary Guidelines for All Commercial Cannabis Licenses, Amended July 2022.

Updated 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: None

Cost or savings in federal funding to the state: None.

Effect on Housing Costs: The proposed regulations will have no fiscal or other effect upon housing in the state.

Contact Person

Inquiries concerning the proposed administrative action may be directed to:

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Legal Affairs Division
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916-465-9025
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The backup contact person for these inquiries is:

Charisse Diaz
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2920 Kilgore Road
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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 Kaila Fayne 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 Kaila Fayne at the above address, email, or phone number indicated above.

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/.