

## Department of Cannabis Control

### Changes Without Regulatory Effect Under California Code of Regulations, Title 1, Section 100

**Subject Matter of Proposed Regulations:** Labor Peace Agreement Requirements for Commercial Cannabis Licensees

**Sections Affected:** Title 4, California Code of Regulations, sections 15002 and 15020.

#### Background

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Pursuant to the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) (Bus. & Prof. Code, § 26000 et. seq.), the Department of Cannabis Control (Department) regulates all commercial cannabis license holders in California including cultivators, manufacturers, retailers, distributors, microbusinesses, testing laboratories, and temporary cannabis events.

Business and Professions Code section 26051.5, subdivision (a)(5), previously required commercial cannabis license applicants with 20 or more employees to either provide a notarized statement that the applicant will enter into and abide by the terms of a labor peace agreement or demonstrate that the business has already entered into a labor peace agreement. The Department adopted subsection (c)(19) of section 15002 and subsection (d) of section 15020 to clarify this requirement as a condition for licensure and renewal, respectively.

On June 30, 2022, Governor Gavin Newsom signed Assembly 195 (Chapter 56, Statutes of 2022). This chaptered bill modified Business and Professions Code section 26051.5(a)(5), requiring, starting July 1, 2024, that commercial cannabis applicants with 10 or more employees, provide either a notarized statement that the applicant will enter into and abide by the terms of a labor peace agreement, or demonstrate that the business has already entered into a labor peace agreement. The bill also prohibits the Department from renewing a license on or after July 1, 2024, for a licensee with 10 or more employees unless the licensee provides a statement that the licensee has already entered into and will abide by the terms of a labor peace agreement. The chaptered bill also requires that a licensee seeking renewal of any license must attest to the Department that the licensee remains in compliance with the terms of any applicable labor peace agreement.

#### Statement of Explanation

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California Code of Regulations (CCR), title 1, section 100(a)(6) provides that an agency may add to, or revise text, published in the California Code of Regulations to make regulatory provisions consistent with a changed California statute if (1) the regulatory provisions are inconsistent with and superseded by the changed statute, and (2) the adopting agency has no discretion to adopt a change which differs in substance from

#### Statement of Explanation for Changes Without Regulatory Effect Under 1 CCR 100

the one chosen. CCR, title 1, section 100(a)(4) provides that changes to existing regulatory text for purposes of revising structure, syntax, cross-reference, grammar, or punctuation are considered non-substantive. CCR, title 1, section 100(a)(5) provides that changing an “authority” or “reference” citation for a regulation is considered non-substantive.

The Department proposes amending subsection (c)(19) of section 15002 to align with the modified requirements in Business and Professions Code section 26051.5(a)(5). This revision is a change without regulatory effect because the regulatory provision is inconsistent with and superseded by the changed statute. Assembly Bill 195 changed Business and Professions Code section 26051.5(a)(5), reducing the threshold number of employees from 20 to 10 starting July 1, 2024. Accordingly, any applicant seeking licensure with 10 or more employees on or after July 1, 2024, must comply with the labor peace agreement provisions. The changed statute does not provide the Department with any discretion to adopt a different requirement; thus, subsection (c)(19) must be amended to change “20” to “10” to align with the statute. Additional non-substantive revisions to subsection (c)(19) are proposed for two purposes: consistency with the underlying statute regarding usage of the term “applicant” rather than the term “commercial cannabis business,” and internal consistency regarding structure and syntax.

The Department proposes amending subsection (d) of section 15020 to add a new paragraph (9) providing that a licensee seeking renewal of any license must submit an attestation that the licensee remains in compliance with the terms of any applicable labor peace agreement. This amendment is a change without regulatory effect because it makes the regulatory provisions consistent with a changed California statute. The section in its current form is inconsistent with and superseded by the changes made to Business and Professions Code section 26051.5(a)(5). The changed statute explicitly provides that a licensee seeking renewal of any commercial cannabis license issued by the Department must provide an attestation to the Department that the licensee remains in compliance with the terms of any applicable labor peace agreement. (Bus. & Prof. Code, § 26051.5(a)(5)(B)). Thus, any licensee seeking renewal must comply with this provision before the Department can issue a renewal. The changed statute does not provide the Department with any discretion to adopt a different requirement. The Department is also proposing to include Business and Professions Code section 26051.5 as a “reference” citation because, as described above, new paragraph (d)(9) implements that statute.

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