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EDMUND G. BROWN JR.  
Governor

**FINDING OF EMERGENCY**  
**Readopt of Emergency Regulations for Cannabis Regulations for CEQA**  
**Compliance and Shared-Use Facilities**  
**DPH-17-013E**

The director of the California Department of Public Health (Department) finds that an emergency exists and that the proposed emergency regulations, as required by the legislature, are necessary to address a situation that calls for immediate action to avoid serious harm to the public peace, health, safety or general welfare.

The Department has found that the deemed emergency circumstances that necessitated the original emergency regulatory package in April 2018 still exist and that the readoption of the regulations are necessary to protect the public health, safety, and welfare.

**NOTICE AND INTRODUCTION**

Notice is hereby given that the California Department of Public Health proposes to adopt the regulations described below. Government Code section 11346.1(a)(2) requires that, at least five working days prior to submission of the proposed emergency action to the Office of Administrative Law (OAL), the adopting agency provide a notice of the proposed emergency action to every person who has filed a request for notice of regulatory action with the agency. After submission of the proposed emergency to the Office of Administrative Law, the Office of Administrative Law shall allow interested persons five calendar days to submit comments on the proposed emergency regulations as set forth in Government Code section 11349.6.

**DEEMED EMERGENCY**

The Department has been provided specific statutory authority to adopt emergency regulations as needed to implement the Medicinal and Adult Use Cannabis Regulation and Safety Act (Act), codified in Business and Professions Code section 26000 et seq. Section 26013, subdivision (b), paragraph (3) of the Business and Professions Code states that “the initial adoption of emergency regulations and readoption of emergency regulations authorized by this section shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare.”

The Department has found that the deemed emergency circumstances that necessitated the original emergency regulatory package (DPH-17-013E), adopted by OAL on April 13, 2018, still exist and that the readoption of the regulations are necessary to protect the public peace, health, safety, and general welfare.



The Department has made substantial progress and has proceeded with diligence toward permanent adoption of the regulations as required by Government Code section 11346.1(h). First and foremost, the emergency regulations proposed in this readoption were combined with other emergency regulations (DPH-17-010E) in a permanent rulemaking package filed with OAL on July 13, 2018. The Department completed the forty-five (45) day public comment period for the combined rulemaking package on August 27, 2018. The Department also has held public hearings on the proposed combined rulemaking package. The hearings were held on July 30, 2018, in Brea, California; August 20, 2018, in Eureka, California; and in Oakland, California on August 27, 2018. The Department has received verbal comments in these hearings, and a substantial number of written comments that are still being reviewed, many of which relate to the regulations proposed in this readoption.

Secondly, the Department has been continuously receiving feedback from the public since the emergency filing became effective. This analysis of feedback from the public has been performed in conjunction with the CalCannabis Cultivation Licensing (CalCannabis) within the Department of Food and Agriculture, and the Bureau of Cannabis Control (Bureau) within the Department of Consumer Affairs. Such coordination between separate agencies can lengthen the time needed to finalize regulatory provisions, as any needed changes often have to be coordinated with these two other agencies.

Lastly, the Department has been receiving feedback on the emergency regulations in DPH-17-013E from the Cannabis Advisory Committee (CAC). This is a statutorily-created task force with specific authority to advise the licensing agencies on the regulations. The CAC is subject to the Bagley-Keene Open Meetings Act, and consequently, all meetings of the CAC and its subcommittees are publically noticed and open to the public and public comment. At the meeting on January 18, 2018, the CAC created subcommittees to discuss and advise on regulatory topics. The subcommittees met on February 15, 2018, and March 1, 2018, and developed recommendations to present to the full CAC for adoption. The full CAC met March 15, 2018, May 17, 2018, July 19, 2018, and August 20, 2018, and considered all the recommendations of the subcommittees, including those from the manufacturing subcommittee.

The Department is continuing to review the comments and recommendations received related to the combined rulemaking package. At this time, the Department has determined that substantive changes to the regulation proposed herein for readoption are not required; any recommendations identified in the comment period will instead be incorporated into the combined permanent rulemaking proposal.

#### **AUTHORITY AND REFERENCE**

The Department is proposing to adopt the proposed rulemaking under the authority provided in sections 26012, 26013, and 26130 of the Business and Professions Code.

The Department is proposing to add sections 40127, 40132, 40190, 40191, 40192, 40194, and 40196 to Chapter 13 of Division 1 of Title 17, California Code of Regulations

in order to implement, interpret, or make specific sections 26001, 26011.5, 26050, 26050.1, 26051.5, 26055, 26130, and 26180 of the Business and Professions Code.

### **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

The purpose and objective, background of existing laws, policy statement overview, problem statement, and benefits of these regulations are incorporated by reference, along with all other documents from the previous approved rulemaking file (OAL file number 2018-0403-03E).

The Department has reviewed and revised the proposed emergency regulations. The changes to be made are as follows:

#### **Section 40191**

- Section (c)(1) has been modified to refer to section 40100(dd), instead of 40100(cc). This cross referenced section changed in the re-adopted regulation package approved by OAL on June 4, 2018 (file number 2018-0525-02E).

### **STATEMENTS OF DETERMINATIONS AND ECONOMIC IMPACT ASSESSMENT**

The Department has determined that the proposed regulatory action would not have a significant economic impact on California business enterprises and individuals.

### **EVALUATION AS TO WHETHER THE REGULATIONS ARE INCONSISTENT OR INCOMPATIBLE WITH EXISTING STATE REGULATIONS**

The Department has made a determination that these regulations are not inconsistent or incompatible with existing state regulations. As the oversight of cannabis commercial activity is a newly-created state responsibility, no other state regulations are already in existence that address the same topic.

### **MANDATED BY FEDERAL LAW OR REGULATIONS**

The Department has made a determination that this proposal is not mandated by federal law or regulations.

### **LOCAL MANDATE**

The Department has determined that this regulatory action would not impose a mandate on local agencies or school districts, nor are there any costs for which reimbursement is required by part 7 (commencing with Section 17500) of division 4 of the Government Code.

### **FISCAL IMPACT ASSESSMENT**

- A. **Cost to Any Local Agency or School District:** None.
- B. **Cost or Savings to Any State Agency:** Funding for the Department for FY 2017-18 is \$13.5 million appropriated from the Cannabis Control Fund.
- C. **Other Nondiscretionary Cost or Savings Imposed on Local Agencies:** None.
- D. **Cost or Savings in Federal Funding to the State:** None.

**INCORPORATION BY REFERENCE**

This Finding of Emergency hereby incorporates by reference all documents in the previous approved rulemaking file under file number 2018-0403-03E.

**DOCUMENTS RELIED UPON**

None.

**CONTACT PERSON**

Inquiries regarding the proposed regulatory action can be directed to Linda M. Cortez, with the Office of Regulations at (916) 440-7807, or the designated backup contact, Dawn Basciano at (916) 440-7367.