

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

Final Statement of Reasons and Updated Informative Digest

Subject Matter of Proposed Regulations: Cultivation license changes pursuant to Business and Professions Code (BPC) section 26061.5.

Sections Affected: California Code of Regulations (CCR), title 4, sections 15020.1, 15020.2, and 15020.3.

Background

On October 13, 2023, Governor Gavin Newsom signed California Senate Bill 833 to assist licensed cultivators. This chaptered bill, codified in BPC section 26061.5, requires the Department to allow cultivation licensees to make certain changes, including: change the type of size of a cultivation license; place a cultivation license in inactive status; or make a one-time change to a cultivation license's date of renewal.

The Department implemented a program for cultivation license changes at renewal through an emergency rulemaking process, which established the framework for the Department's processing of such requests. The emergency rulemaking was filed with the Office of Administrative Law (OAL) on February 29, 2024, approved by OAL and filed with the Secretary of State on March 11, 2024, and became effective immediately. The Department's readoption of the emergency regulation was approved by OAL on September 3, 2024, and filed with the Secretary State the same day, making it effective immediately.

This proposed action to adopt the program cultivation license changes at renewal through CCR, title 4, sections 15020.1, 15020.2, and 15020.3 provides Department cultivation licensees the opportunity to request changes to the type of size of a cultivation license; place a cultivation license in inactive status; or make a one-time change to a cultivation license's date of renewal. Throughout this process, Department staff has conducted significant outreach with licensees and other stakeholders towards the development of the Department's cultivation license change regulations, which would enable cultivation licensees to adjust their operations in response to fluctuations in the commercial cannabis market, while maintaining state commercial cannabis licensure.

On November 1, 2024, the Department issued a Notice of Proposed Rulemaking and began a 46-day comment period on the proposed regulations. The Department held a virtual public hearing on December 17, 2024, the final day of the comment period. The Department received several written comments during the proposed action's comment period. The Department has made no changes or revisions to the regulations based on its review of the comments received.

Update To Initial Statement of Reasons

As authorized by Government Code section 11346.9 subdivision (d), the Department hereby incorporates the Initial Statement of Reasons prepared in this rulemaking. The necessity for the adoption of new regulations as set forth in the Initial Statement of Reasons continues to apply to the regulations as adopted. The Department notes that the Initial Statement of Reasons incorrectly identified total statewide benefits in approximately “\$2,892 million per year”, when the total statewide benefits are actually, “\$2.892 million per year” as stated in the 399 and document relied upon. This inadvertent typographical error was also included in the Notice of Proposed Rulemaking issued on November 1, 2024.

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There have been no substantial changes in applicable laws or to the effect of the proposed regulations from the laws and effects described in the Notice of Proposed Regulatory Action. The Department notes that the Notice of Proposed Rulemaking, issued on November 1, 2024, included several erroneous references to BPC section 26249 being part of Senate Bill 833 (Chapter 886, Statutes of 2023). Rather, Senate Bill 833 added section 26061.5 to the BPC.

Local Mandate Determination

The proposed regulations do not impose a mandate on local agencies or school districts.

Incorporation by Reference

No documents have been incorporated by reference.

Summary and Response to Comments Relevant to the Proposed Action Received During the 45-Day Comment Period

Section of Regulation	Comment Number	Summary of Comments Received During 45-Day Comment Period	Department Response
General Opposition to Cultivation License Changes	2	Commenter indicates that the Department’s commercial cultivation regulations have prevented the commercial cannabis industry from thriving and expresses doubt that the proposed cultivation license change regulations will make a difference to the commercial cannabis market.	The Department disagrees with this comment, but notes commenters’ general concerns and looks forward to working with stakeholders on the development of policies for future rulemakings. BPC section 26061.5 requires the Department to allow cultivation licensees to make certain changes,

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			<p>including: change the type of size of a cultivation license; place a cultivation license in inactive status; or make a one-time change to a cultivation license's date of renewal. Allowing for such cultivation license changes would enable cultivation licensees to adjust their operations in response to fluctuations in the commercial cannabis market, while maintaining state commercial cannabis licensure.</p>
<p>Program's Applicability to Agricultural Cooperatives</p>	<p>3</p>	<p>Commenter indicates that they will be forwarding a future comment for consideration and how they implement the cultivation license change program. Commenter indicates that the program must consider agricultural marketing cooperatives.</p>	<p>The Department notes this comment. BPC section 26061.5 requires the Department to allow cultivation licensees to make certain changes, including: change the type of size of a cultivation license; place a cultivation license in inactive status; or make a one-time change to a cultivation license's date of renewal. Allowing for such cultivation license changes would enable cultivation licensees to adjust their operations in response to fluctuations in the commercial cannabis market, while maintaining state commercial cannabis licensure.</p> <p>While not on the proposed action, the Department notes commenter's concerns regarding agricultural marketing cooperatives and looks forward to working with stakeholders on the development of policies for</p>

Section of Regulation	Comment Number	Summary of Comments Received During 45-Day Comment Period	Department Response
			future rulemakings.

Summary and Response to Comments Not Relevant to the Proposed Action Received During the 45-Day Comment Period

Section of Regulation	Comment Numbers	Summary of Comments Received During 45-Day Comment Period	Department Response
Taxes	1	<p>Commenter indicates they are a licensed retailer with 45 years of experience in commercial cannabis operations. Commenter indicates that regulatory inefficiencies, lack of knowledge, corruption, lack of support for legal operators, illegal black market, and tax rates are contributing to the collapse of the commercial cannabis industry. Commenter indicates that the tax system has crippled the industry.</p>	<p>BPC section 26061.5 requires the Department to allow cultivation licensees to make certain changes, including: change the type of size of a cultivation license; place a cultivation license in inactive status; or make a one-time change to a cultivation license’s date of renewal. Allowing for such cultivation license changes would enable cultivation licensees to adjust their operations in response to fluctuations in the commercial cannabis market, while maintaining state commercial cannabis licensure.</p> <p>While not on the proposed action, the Department notes commenter’s concerns regarding taxation. The Department does not have the authority to establish or modify tax rates, or create regulations regarding the collection of taxes. The California Legislature is responsible for establishing cannabis tax rates, and the California Department of Tax and Fee Administration (CDTFA) is the department responsible for promulgating regulations regarding the collection of</p>

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			taxes by commercial cannabis licensees.

Alternatives That Would Lessen the Adverse Economic Impact on Small Business

No alternative proposed to the Department that would lessen any adverse economic impact on small businesses was rejected by the Department.

Alternatives Determination

The Department determined that no alternatives it considered or that was otherwise identified and brought to its attention would be more effective in carrying out the purpose for which the regulation is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The regulations adopted by the Department are the only regulatory provisions identified by the Department that would accomplish the goal of implementing a program that enables cultivation licensees to make certain license changes. The final regulations are organized in a manner that allows cultivation licensees to easily navigate the regulations to review the process of requesting license changes, ensuring clarity and consistency in the cultivation license change request process.

The first alternative considered for the proposed regulations was to not adopt the regulations. This alternative was rejected because BPC section 26061.5 requires the Department to provide cultivation licensees an opportunity to make certain changes, including: changing the type of size of a cultivation license; placing a cultivation license in inactive status; or making a one-time change to the license’s renewal date. If the Department does not adopt regulations, there will be no specific process for applicants and licensees to follow to make changes to their existing cultivation licenses.

The second alternative considered by the Department was to impose a larger fee to enter Limited Operations Status. This alternative was rejected because it would provide insufficient benefits to cultivators that elect to use the Limited Operations Status. The purpose of the Limited Operations Status option is to allow cultivators to save costs during times with adverse market conditions. Reducing the fees paid by cultivators using the Limited Operations Status by only 50 percent would save cultivators substantially less than under the proposed regulations. While the fiscal impact of this alternative would be less of a reduction in gross revenue from license fee revenue for the Department, it would not encourage as much participation in using the Limited Operations Status.

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The third alternative considered by the Department was to not impose a fee to enter Limited Operations Status. Although this alternative would maximize benefits for cultivators who wish to enter Limited Operations Status and maximize participation, this alternative was rejected because it would not cover any costs for the Department to conduct activities related to licensing and compliance, which would continue to be necessary for licenses in limited operations.