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Legal Affairs Division
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April 24, 2025

Re: Commercial Cannabis Cultivation Updates; Minimum Sanitation Standards

On behalf of Origins Council, representing 400 small and independent cannabis businesses in rural legacy producing counties throughout California, we are writing to provide comment on proposed DCC cultivation and on-farm sanitation regulations formally noticed on March 14, 2025.

The majority of our comment focuses on the on-farm sanitation standards proposed in Article 8 of the proposed regulation. We are extremely concerned these proposed regulations, if implemented as currently worded, would be non-viable to comply with and would preclude many common and innocuous agricultural practices.

Business and Professions Code 26013(c)[1] stipulates several requirements for DCC regulatory promulgation that we believe are not met by the Article 8 regulations as proposed:

> *"Regulations issued under this division shall be necessary to achieve the purposes of this division, based on best available evidence, and shall mandate only commercially*

[1] https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=26013&lawCode=BPC

feasible procedures, technology, or other requirements, and shall not unreasonably restrain or inhibit the development of alternative procedures or technology to achieve the same substantive requirements, nor shall the regulations make compliance so onerous that the operation under a cannabis license is not worthy of being carried out in practice by a reasonably prudent businessperson."

Below, we substantiate why proposed Article 8 regulations are 1) not necessary to achieve the purposes of Division 10, 2) not based on best available evidence, 3) do not mandate commercially feasible requirements, 4) do not consider the use of alternative procedures, and 5) make compliance excessively onerous for prudent businesspeople.

Our comment on the proposed Article 8 regulations is divided into the following parts:

1. Proposed Article 8 regulations are extraordinarily prescriptive to a point that has no precedent in other agricultural or DCC regulatory contexts.
2. Prescriptive Article 8 regulations are not viable to comply with and impose unreasonable barriers on use of alternative methods.
3. Prescriptive on-farm sanitation standards are not necessary for the protection of public health, and the ISOR does not illustrate their necessity.
4. The 1998 FDA guidance referenced in the ISOR does not justify the proposed regulations.
5. DCC should not impose additional regulatory burden on farmers unless clearly warranted.
6. Proposed Article 8 regulations are incommensurate with currently-proposed legislation, AB 8, that would allow the integration of hemp into the cannabis supply chain.

Based on this analysis, we suggest options for alternative approaches.

7. Options for alternative approaches to on-farm sanitation.

Following our comments on proposed sanitation regulations, we also provide comment on other proposed regulations in the March 14 rulemaking package.

8. Comments on other proposed DCC regulations.

Analysis of Proposed Article 8 Sanitation Regulations

1. Proposed Article 8 regulations are extraordinarily prescriptive to a point that has no precedent in other agricultural or DCC regulatory contexts.

The DCC's proposed sanitation standards for cannabis cultivators in Article 8 include the following highly prescriptive and specific requirements:

- Requiring tools, utensils, and equipment to be cleaned and sanitized each day they are in use and between use on each harvest batch. (§15061(a))
- Requiring "clean" tools and surfaces to be entirely "free of visual dust, dirt, debris, cannabis residue, and food residue." (§15061(b))
- Specifying a list of just four acceptable sanitizing chemicals and methods. (§15061(c))
- Requiring containers used to store and transport cannabis to be cleaned and sanitized at specified time intervals. (§15061(a))
- Unconditionally prohibiting animals from indoor areas of the premises. (§15060)
- Requiring any animal waste found on any area of a licensed premises to be immediately removed. (§15060(b))

In our research, we have been unable to find any precedent for regulation this prescriptive in any other DCC regulation or in any other agricultural context.

For comparison, existing DCC regulation §17210(c) for cannabis manufacturers states simply that *"equipment and utensils shall be maintained in a clean and sanitary condition and kept in good repair."* "Cleanliness" is not defined in the prescriptive manner of the proposed DCC cultivation regulations, and "sanitation" is defined broadly *("to treat cleaned surfaces by a process that is effective in destroying vegetative cells of pathogens…")* rather than the short list of allowable sanitation methods prescribed under proposed Article 8 regulations.

Prescriptive DCC regulations also have no precedent in any other agricultural context we were able to identify. Beyond baseline OSHA standards, agricultural products which are not considered foods - such as cotton, tobacco, or hemp - as well as foods which are not typically consumed raw, are not subject to additional on-farm sanitation regulations either federally or under California law.

For foods that are typically consumed raw, on-farm sanitation standards are governed under the Food Safety Modernization Act (FSMA), federal legislation passed in 2011 which granted FDA new authority to regulate on-farm activities to prevent microbiological contamination in food. In California, the FSMA is implemented largely through CDFA's Produce Safety Program.[2]

Since cannabis is not a food typically consumed raw, our understanding is that the FSMA would not apply to cannabis even if cannabis were federally legal. Even if the FSMA were applicable to

[2] https://www.cdfa.ca.gov/producesafety/

cannabis, however, we do not believe it would justify the proposed regulations. In the section below, we compare FSMA regulations to the Article 8 regulations proposed by DCC in more detail.

2. Prescriptive Article 8 regulations are not viable to comply with and impose unreasonable barriers on use of alternative methods.

Prescribing one-size-fits all sanitation regulations for agricultural contexts is inherently challenging. Unlike manufacturing contexts, which are highly standardized, agricultural practices are inherently diverse and site-specific.

Below, we demonstrate how the DCC's highly prescriptive proposed regulations are non-viable for agricultural producers; while the most comparable agricultural framework, the FSMA, utilizes far more flexible language to accommodate the realities of agricultural production.

a. 15061(b): Definition of "clean" as "free of visual dust, dirt, debris, cannabis residue, and food residue."

The wording of this section suggests that tools, etc. must be *entirely* free of visible dust, dirt, debris, or cannabis or food residue. This standard is simply not viable to comply with. Cannabis is a sticky, resinous plant, and residue on tools, utensils, etc. is unavoidable and not a health risk. A zero-tolerance standard is extremely excessive and puts cultivators at risk of enforcement action for minor violations which pose no risk to public health.

For comparison, the FSMA requires equipment and surfaces to be cleaned "as frequently as *reasonably necessary* to protect against contamination of covered produce" and does not further define "cleanliness."[3] (CFR 112.113).

Similarly, as discussed above, existing DCC regulation §17210(c) for cannabis manufacturers states simply that *"equipment and utensils shall be maintained in a clean and sanitary condition and kept in good repair"* and does not further define "cleanliness."

The ISOR does not reference either of these relevant regulatory frameworks, and instead utilizes California Retail Food Code as a model for the proposed cleanliness standard. No reason is given for why restaurant standards are proposed for application to non-food agricultural environments, when far more relevant agricultural and cannabis-specific standards could have been utilized.

b. §15061(a)(1-2): Requirement to clean and sanitize tools, equipment, surfaces, and utensils "each day" they're in use and in between use on harvest batches.

It's impractical and unnecessary to clean and sanitize tools, equipment, utensils, etc. at this time interval, particularly to the zero-tolerance standard described above. Cultivators may use tools

[3] https://www.ecfr.gov/current/title-21/chapter-I/subchapter-B/part-112/subpart-L/section-112.123

only for a brief period of time each day, not necessarily in multi-hour shifts. Equipment such as trimming machines is difficult to clean and daily cleaning is not necessary. In many cases, the proposed standard also requires cleaning and sanitation far more often than once per day, since these practices would also be required in between use on different harvest batches.

Daily cleaning and sanitation of equipment is not unconditionally required in any other agricultural context we're aware of. FSMA standards simply require cleaning to take place "as frequently as reasonably necessary." (CFR §112.113)[4]

c. §15061(a)(3)(A-B): Requirement to clean and sanitize containers for transport at specified intervals.

We have several concerns regarding this proposed standard.

First, containers that store cannabis will inherently accumulate cannabis residue. Requiring containers to be fully "cleaned" (i.e. cleared of any visible cannabis residue) at these intervals is challenging and has no obvious public health benefit.

Second, many cultivators utilize tote liners, and it's unclear whether the proposed standards apply to the tote liner or the bin. The most straightforward reading of the proposed regulation is that it refers to the "container," not a tote liner. Use of tote liners should be an acceptable method to fulfill cleanliness and sanitation requirements.

Third, the specific wording of this proposed requirement is unclear to us:

> *(3) Any container used to store or transport harvested cannabis is cleaned and sanitized, at minimum:*
> *(A) between storage and transport of each harvest batch, and*
> *(B) at the beginning and the end of each growing season*

This period "between storage and transport of each harvest batch" may encompass many months. Is the intended wording "prior to transport?" Additionally, how is "the beginning and the end of each growing season" defined?

For comparison, FSMA regulations only require containers to be "adequately clean before use in transporting covered produce and adequate for use in transporting covered produce."[5] (CFR §112.125). This standard is both clearer (it clearly identifies the time period in question) and more reasonable (containers must be "adequately clean," not entirely spotless).

The only DCC regulation pertaining to containers for manufacturers, §17212(a)(6), simply states that: *"raw materials and other components shall be held in containers designed and constructed to protect against allergen cross-contact or contamination, and shall be held at a temperature*

[4] https://www.ecfr.gov/current/title-21/chapter-I/subchapter-B/part-112/subpart-L/section-112.123
[5] https://www.ecfr.gov/current/title-21/chapter-I/subchapter-B/part-112/subpart-L/section-112.125

and relative humidity and in a manner that prevents the cannabis products from becoming adulterated." There is no requirement to clean and sanitize containers at regular intervals.

d. §15061(c): Specification of four allowable sanitation methods.

This section specifies just four chemicals as acceptable for use in sanitation, and excludes countless other methods utilized by cultivators for sanitation, including non-chemical methods such as use of UV sanitizers or steam. Neither the FSMA nor DCC regulations for laboratories and manufacturers specify any required method for sanitation.

Proposed DCC standards for cannabis cultivators would actually be *more* stringent than California Retail Food Code standards, which allow *"Contact with any chemical sanitizer that meets the requirements of Section 180.940 of Title 40 of the Code of Federal Regulations when used in accordance with the manufacturer's use directions"* and *"other methods approved by the enforcement agency"*[6] in addition to the four specified sanitation methods in DCC regulation.

e. §15060(b): Requiring any animal waste found on any area of a licensed premises to be immediately removed.

This requirement is unreasonable on an outdoor farm where wildlife (birds, deer, bears, etc.) are likely present. Farmers in the midst of time-pressured cultivation or harvest activities should not be required to immediately remove (for example) bird droppings they find on a part of their farm that poses no risk of product contamination.

It should be noted that the "licensed premises" may be quite a large area, and large portions of the "licensed premises" may be located far away from cannabis products that might be contaminated.

For comparison, FSMA regulations prohibit raw manure from contacting covered produce, but do not establish a blanket prohibition on animal waste anywhere on a farm. (CFR §112.83[7], §112.122[8], and §112.134[9])

f. §15060(a)(1): Prohibition of animals in any indoor area of a licensed premises.

Not all areas of a licensed premises risk contamination of product: for example, an office, or in an area of the premises that only sometimes contains cannabis material. Cultivators may reasonably want a dog or other pets in these areas.

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[6] https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=HSC&sectionNum=114099.6.

[7] https://www.ecfr.gov/current/title-21/chapter-I/subchapter-B/part-112/subpart-I/section-112.83

[8] https://www.ecfr.gov/current/title-21/chapter-I/subchapter-B/part-112/subpart-K/section-112.112

[9] https://www.ecfr.gov/current/title-21/chapter-I/subchapter-B/part-112/subpart-L/section-112.134

For comparison, the FSMA only excludes domestic animals in indoor areas where *uncovered produce is present.* (CFR §112.127)[10]

3. Prescriptive on-farm sanitation standards are not necessary, and the ISOR does not illustrate their necessity.

a. Unlike any other agricultural product, every batch of cannabis products is already tested in final form for contaminants.

Cannabis is the only American agricultural product required to undergo mandatory final form product testing. This testing is applicable to each batch of cannabis or cannabis products and must be performed by a DCC-licensed testing laboratory. Because these tests are precisely quantifiable and prescribed for every batch of cannabis products, DCC testing requirements are much more relevant, comprehensive, and enforceable than the proposed on-farm sanitation standards.

The ISOR suggests two reasons why existing final form testing may be inadequate. First, the ISOR suggests that microbial contaminants present in cannabis could multiply following final form testing, so that the initial test passes but the cannabis subsequently becomes contaminated.

We believe this is unlikely for several reasons. Existing testing requirements impose a "non-detect" standard on microbial contaminants (DCC regulation §15717). This testing occurs at a distributor, not on-farm, and so there is inherently a time lag between harvest and testing that would account for any theoretical microbial reproduction. Additionally, required tests include several tests ancillary to microbiological contamination that reflect or predict contamination, including testing for water activity, mycotoxins, and foreign materials.

Second, the ISOR raises a concern that the existing microbiological testing panel does not test for contaminants such as *Hepatitis A, Norovirus, and Listeria.* We were not able to locate any reported examples of cannabis products (in California or elsewhere) contaminated with *Norovirus* or *Listeria*. *Listeria* in particular cannot survive heating and so is not a likely source of pathogenic contamination.[11] For *Hepatitis A*, we were only able to find a single published case of suspected contamination, from 2017 in Canada.[12] Even in this case, the report concludes that *"It cannot be concluded with certainty that the cannabis was the source of the hepatitis A."*

b. There is no evidence that microbiological contamination in legal cannabis products currently poses a threat to public health.

The ISOR provides no evidence that microbiological contamination in cannabis currently poses a public health concern in California. In over seven years of legal adult use cannabis in

[10] https://www.ecfr.gov/current/title-21/chapter-I/subchapter-B/part-112/subpart-L/section-112.127
[11] https://cdn.technologynetworks.com/tn/resources/pdf/microbiological-safety-testing-of-cannabis.pdf
[12] https://pmc.ncbi.nlm.nih.gov/articles/PMC5764743/

California, we are not aware of any reporting or evidence to this effect. LA Times reporting has found a number of reports of pesticide contamination in legal cannabis products,[13] but this source of contamination is distinct from microbiological contamination and would not be addressed by sanitation regulations. Microbiological contaminants such as *aspergillus* are already included in required testing and are primarily caused by inadequate ventilation, humidity, or temperature controls beyond the scope of the proposed regulations.

c. <u>There is no "prohibition gap" in on-farm cannabis sanitation regulation.</u>

The ISOR states that *"Because of cannabis' unique legal status, standards that are applicable to other consumer products are not necessarily applicable to the cultivation and production of commercial cannabis."* In fact, the reverse is true: cannabis' legal standing as a highly-regulated state-legal product under federal prohibition has led to *more* existing and proposed consumer safety regulation (e.g. existing mandatory testing requirements, proposed DCC sanitation standards) than for comparable legal products. For comparison, neither hemp nor tobacco is subject to mandatory on-farm sanitation standards or mandatory final product testing.

d. <u>Sanitation is in licensees' best interest, but the proposed sanitation requirements are not.</u>

The ISOR states that *"Minimum sanitation standards are in licensees' best interests"* because this can help prevent costly product contamination. We agree that *sanitation* is in the best interests of licensees, but as discussed above, the proposed sanitation regulations are not.

e. <u>Portions of DCC proposed §15062 are duplicative of existing OSHA standards.</u>

OSHA sanitation standards,[14] including standards related to handwashing, toilets, and potable water, are already applicable to all agricultural employers, including cannabis cultivators.[15]

<u>4. The 1998 FDA guidance referenced in the ISOR does not justify the proposed regulations.</u>

The ISOR relies primarily on an 1998 FDA guidance document for the handling of fresh fruits and vegetables[16] in justifying proposed on-farm sanitation regulations. For several reasons, we believe this 1998 FDA guidance is a poor model for the proposed regulations.

a. <u>The 1998 guidance has been superseded multiple times since its publication and is no longer relevant.</u>

[13] https://www.latimes.com/california/story/2024-06-14/the-dirty-secret-of-californias-legal-weed
[14] https://www.dir.ca.gov/title8/3457.html
[15] BPC 26051.5(a)(8)
[16] https://www.fda.gov/regulatory-information/search-fda-guidance-documents/guidance-industry-guide-minimize-microbial-food-safety-hazards-fresh-fruits-and-vegetables

Since 1998, the FDA guidance document referenced in the ISOR has been superseded multiple times. In 2008, FDA published an updated guidance[17] replacing the 1998 document. According to the 2008 document, this guidance expired as of October 31, 2010. The FSMA was subsequently passed in 2011 and became the governing regulatory framework for on-farm sanitation for raw produce in the United States. The ISOR does not mention or discuss the FSMA, indicating that the most relevant legal structure for the proposed regulations was not considered in drafting the regulations

b. <u>The 1998 guidance is voluntary, not mandatory.</u>

The 1998 guidance is voluntary and is careful to state that *"The produce guide is guidance and it is not a regulation... the guide does not have the force and effect of law and thus is not subject to enforcement. Operators should use the general recommendations in this guide to tailor food safety practices appropriate to their particular operations."*

The voluntary nature of the 1998 FDA guidance reflects the extreme sensitivity in applying mandatory and specific rules to agricultural contexts that are inherently diverse and non-standardized. As illustrated above, prescriptive and mandatory sanitation rules in agricultural contexts risk prohibiting innocuous agricultural practices that pose no practical risk to public health risk.

While the 1998 guidance does occasionally reference (for example) "daily" cleaning, it's critical to contextualize this in terms of the voluntary nature of the guidance. As the FDA has moved towards mandatory standards in the 2008 guidance and then in implementation of the FSMA, instances of more prescriptive language were dropped in favor of language that emphasizes functional outcomes and flexible use of alternative procedures.

c. <u>The 1998 guidance is applicable to fresh fruits and vegetables, not cannabis or hemp.</u>

As discussed above, non-food crops such as tobacco, hemp, and cotton are not governed by FSMA regulations and are not held to sanitation standards beyond baseline OSHA standards. Similarly, the 1998 FDA guidance is only applicable to fresh fruits and vegetables, not non-food crops.

<u>5. DCC Should Not Impose Additional Regulatory Burden on Farmers Unless Clearly Warranted</u>

For several reasons, we believe the DCC should err against imposing additional regulatory burdens on farmers unless clearly needed.

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17 https://www.fda.gov/regulatory-information/search-fda-guidance-documents/guidance-industry-guide-minimize-microbial-food-safety-hazards-fresh-cut-fruits-and-vegetables

a. Regulatory burden on cannabis farmers is already excessive.

Cannabis farmers already face tremendous regulatory burdens that far exceed the regulatory burdens placed on any other form of agriculture. These include expensive and disproportionate licensing fees, the anomalous application of CEQA law to cannabis mandating costly site-specific CEQA analysis for all cannabis cultivation sites in the State; special environmental and land use requirements; required end-product testing for each batch; special requirements for transport and distribution; detailed operational requirements; and more. For small farmers to be successful, it is critical that policy work to decrease unnecessary regulatory burdens for farmers, not increase them further.

b. Agriculture requires flexibility.

Farmers use a wide variety of cultivation methods and are subject to a wide range in cultivation conditions (climate, soils, etc.) As discussed above, the prescriptive and detailed rules proposed under Article 8 are often inconsistent with the flexibility realistically needed in agriculture.

c. Alignment with evolving federal policy.

As the federal government increasingly contemplates cannabis legalization, quality control practices for cannabis are likely to be standardized at the federal level and implemented by agencies such as USDA and FDA that already have their own regulatory systems in place. Adopting further California-specific rules which may be subsumed by federal regulations or burgeoning interstate commerce standards in the near future may be an inefficient use of resources.

d. Preserving DCC resources.

We understand that DCC has limited resources and must prioritize where those resources are allocated. At their December 18 Cannabis Advisory Committee hearing, DCC staff suggested that expanded responsibilities at DCC may be a reason for increasing licensing fees on cannabis businesses, an outcome which would further increase burdens specifically on legal and compliant businesses. In the context of these limited resources, we believe additional regulatory burdens should require a strong rationale to move forward.

6. Proposed Article 8 regulations are incommensurate with currently-proposed legislation, AB 8, that would allow the integration of hemp into the cannabis supply chain.

AB 8 is pending legislation in the California legislature that proposes to allow the integration of hemp into the cannabis supply chain.[18] AB 8 would allow cannabis manufacturers to purchase hemp biomass for inclusion into a cannabis product, or allow cannabis distributors and retailers to purchase final form hemp products from out of state for sale at California dispensaries.

[18] https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202520260AB8

Should AB 8 pass, hemp-derived products sold in cannabis dispensaries would contain hemp-derived cannabinoids grown without the sanitation standards proposed by DCC in Article 8 - or any of the other production requirements imposed upon California cannabis cultivators - given that hemp cultivation is regulated as an agricultural activity by CDFA and USDA and is not regulated by the DCC.[19] As discussed throughout this letter, the FSMA is only applicable to foods typically consumed raw, and so there is no *other* regulatory on-farm sanitation standard applicable to hemp cultivation.

If the reasoning in the ISOR is taken at face value, hemp products and cannabinoids integrated under AB 8 would not be safe for human consumption since they would not be produced under DCC (or any other) on-farm sanitation regulatory framework. To be clear, we disagree with the claim; but wanted to underline that we see no way to simultaneously justify proposed sanitation regulations while also moving forward with hemp integration as proposed in AB 8.

[19] https://www.cdfa.ca.gov/plant/industrialhemp/docs/CaliforniaIndustrialHempLawandRegulations.pdf

Potential Alternatives to Proposed Article 8 Regulations

As discussed in the comments above, we are not aware of evidence justifying a need for additional on-farm sanitation regulation seven years into the implementation of Proposition 64. Given the existence of mandatory final-form product testing which already far exceeds the standards applicable to other consumer products, and the extensive regulation already applicable to cannabis cultivators, we do not believe the additional on-farm sanitation regulations in Article 8 are necessary.

If Article 8 regulations are implemented, however, these standards should be modified substantially so that they are practically viable for agricultural producers to comply with. In our view, this can be done relatively simply by drawing regulations from existing DCC and FSMA frameworks rather than the inapplicable Retail Food Code.

§15060. Animals and Animal Waste.
(a) Licensees are prohibited from allowing animals, except for service animals as defined in 28 CFR part 36.104, to enter the following areas:
(1) Any indoor area of a licensed premises **where cannabis is exposed**.
(2) Any outdoor area of a licensed premises used for processing harvested cannabis, creating nonmanufactured cannabis products, or packaging cannabis or nonmanufactured cannabis products.
(b) **Licensees shall not harvest cannabis that is reasonably likely to be contaminated with animal waste or that is visibly contaminated with animal waste.** ~~Animal waste, other than manure used as fertilizing material, found in any area of a licensed premises must be removed and disposed of immediately upon discovery.~~

- ➔ **Rationale:** These proposed amendments align directly with relevant FSMA regulations on animals.

§15061. Tools, Utensils, Equipment, and Containers.
~~(a)~~ Each licensee who cultivates cannabis for harvest, processes cannabis, creates nonmanufactured cannabis products, or packages cannabis or nonmanufactured cannabis products for retail sale shall ensure that:
(1) Tools and utensils used to trim, harvest, or process cannabis, create nonmanufactured cannabis products, or package cannabis or nonmanufactured cannabis products for retail sale are **cleaned and sanitized as frequently as reasonably necessary to protect against contamination** ~~cleaned and sanitized each day~~ during periods when the tools or utensils are in use~~, and between work on different harvest batches~~. Tools and utensils subject to this section include, but are not limited to, scissors, funnels, sieves, and sifters.
(2) Equipment surfaces that contact harvested or processed cannabis, unpackaged cannabis, or unpackaged nonmanufactured cannabis goods are **cleaned and sanitized as frequently as reasonably necessary to protect against contamination** ~~cleaned and sanitized each day~~ during periods when the equipment is in use. Equipment subject to this

section includes, but is not limited to, trimming machines, sorting machines, rolling machines, tables, countertops, tarps, and trays.

(c) Any container used to store or transport harvested cannabis is adequately clean before use in transporting cannabis. Tote liners may be used to effectuate the purpose of this section.

~~(3) Any container used to store or transport harvested cannabis is cleaned and sanitized, at minimum:~~

~~(A) between storage and transport of each harvest batch, and~~

~~(B) at the beginning and the end of each growing season.~~

~~(b) For purposes of this section, "clean" means free of visual dust, dirt, debris, cannabis residue, and food residue.~~

~~(c) For purposes of this section, "sanitize" means application of sanitizing chemicals by immersion, manual scrubbing, or brushing using any of the following methods:~~

~~(1) Contact with a solution of 100 ppm available chlorine solution for at least 30 seconds.~~

~~(2) Contact with a solution of 25 ppm available iodine for at least 60 seconds.~~

~~(3) Contact with a solution of 200 ppm quaternary ammonium for at least 60 seconds.~~

~~(4) Contact with isopropyl alcohol (70% or higher grade) for at least 30 seconds.~~

- ➔ **Rationale:** Proposed language regarding equipment, tools, utensils, surfaces, and containers is taken directly from existing wording in FSMA regulations. Tote liners are not referenced in FSMA, but are included here due to their frequent use by cannabis cultivators. Definitions of "cleanliness" and specification of allowable sanitation methods are struck for consistency with DCC manufacturing regulations, DCC laboratory regulations, and FSMA regulations, none of which define or specify these terms.

~~§15062. Handwashing and Glove Use.~~

~~(a) Each licensee authorized to process harvested cannabis, create nonmanufactured cannabis products, package cannabis or nonmanufactured cannabis products, or otherwise handle unpackaged cannabis or nonmanufactured cannabis products must ensure that individuals conducting these activities have access to either:~~

~~(1) Handwashing stations that provide potable running water, liquid soap or other surfactant, single-service, disposable paper towels or an electric hand dryer, and a waste container, or~~

~~(2) Single-use, food-safe, non-latex gloves.~~

~~(b)~~ Immediately before performing any task involved in processing harvested cannabis, creating nonmanufactured cannabis products, packaging cannabis or nonmanufactured cannabis products, or otherwise handling unpackaged cannabis or nonmanufactured cannabis products, an individual must either:

~~(1)~~ **(a)** Wash their hands thoroughly by scrubbing with soap or other surfactant for at least 15 seconds and rinsing with potable running water, then dry their hands thoroughly using single-service paper towels or an electric hand dryer, or

~~(2)~~ **(b)** Don new, single-use, food-safe, non-latex gloves.

➔ **Rationale:** Handwashing and glove requirements in (a) are duplicative of existing OSHA regulations for businesses with employees.[20] For businesses without employees, these regulations could open non-premises residential areas to DCC inspections, infringing on the reasonable privacy expectations of homestead cultivators.

[20] https://www.dir.ca.gov/title8/3457.html

Comments on other Proposed DCC Regulations

In addition to the proposed Article 8 sanitation regulations, several other regulations are proposed for adoption in the regulatory package. Below, we comment on several of these proposed regulations.

- **§16300(c): Immature Plants and Seeds May be Transported from a Cultivator to a Nursery via a Distribution License**
- **§16300(e): Immature Plants, Seeds, and Harvested Cannabis May be Transported Between Multiple Licensed Cultivation Premises Held by the Same Licensee via a Distribution License**

We strongly support these proposed regulations to enable more flexibility in the transportation of immature plants, seeds, and harvested cannabis to and from licensed cultivation sites.

However, these proposed regulations point to the critical importance of further action to decrease barriers to obtaining a distribution transport-only self-distribution license. Currently, many cultivators are unable to obtain distribution transport-only self-distribution licenses due to the requirement in §15308 of DCC regulation for all distribution licensees, regardless of type or size, to carry at least $2,000,000 in general liability insurance.

This is clearly unnecessary for licensees who are definitionally limited to carrying their own product. In the context of the proposed regulations - that is, to transport immature plants and seeds between licenses - it's especially evident that a $2,000,000 insurance policy is unnecessary.

> **OC Recommendation:** Support proposed regulations.
> **OC Recommendation:** Take further action to waive insurance requirements for distribution transport-only self-distribution licensees (§15308).

a. §15006(5)(A): Mature Plants Utilized for R+D and Seed Production

Proposed regulations would require mature plants utilized for R+D and seed production to be marked as part of the canopy area, and included in calculations for maximum allowable plant canopy.

For plants which are not intended to, and will not, enter the commercial market, we don't believe it's necessary to include these plants as part of the mature plant canopy. R+D and seed production allowances are critical to support a diverse craft and medicinal cannabis market, and should be encouraged rather than discouraged.

> **OC Recommendation:** Oppose proposed regulation.
> **OC Recommendation:** Allow mature plants to be grown for R+D and seed production purposes outside the canopy area, so long as they're marked on the premises diagram and do not enter the commercial market.

➢ **§15601(c): Extend Maximum Event Duration From 4 Days to 30 Days**

We support this proposed regulation, which provides additional flexibility for events of longer duration. This year's California State Fair was licensed for 17 days of event sales, but under current regulations, was required to obtain five separate event licenses to authorize these sales.

At the same time, however, these proposed changes highlight existing issues with the structure of licensing fees for event organizers. Currently, the DCC's fee for each cannabis event is $1,000, regardless of the size or duration of the event. Additionally, DCC's fee structure charges event organizers an annual fee solely on the basis of the *number* of events they hold each year: again, regardless of the size or duration of the event. This fee structure puts small events at a disadvantage compared to larger events, and fails to correlate licensing fees to the actual regulatory resources required to enforce compliance at each event.

OC Recommendation: Support proposed regulation.
OC Recommendation: Restructure event licensing fees so that small events (by size and/or duration) and small-scale event organizers pay significantly lower licensing fees.

➢ **§16306: Strike Existing DCC Regulations on Generators**

We support the proposed change. Generator use is already regulated under state law, the Air Resources Board, and oftentimes under local cannabis ordinances, and additional DCC regulation is not necessary.

OC Recommendation: Support proposed regulation.

Sincerely,



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