

Cannabis Business CEQA Exemption Expires on July 1: Will You Have a Permit or License to Conduct Business?



The legalization of cannabis in California has brought about a flurry of regulatory and statutory requirements to conduct business. In order to facilitate the business demand, the State postponed certain requirements, such as the need to comply with the California Environmental Quality Act (CEQA). As stated in California Business and Professions code section 26055(h) (below), CEQA did not apply to an ordinance, rule, or regulation issued by a local jurisdiction related to the approval of permits and licenses for the commercial cannabis business.

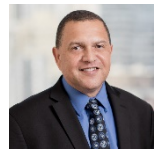
(h) Without limiting any other statutory exemption or categorical exemption, Division 13 (commencing with Section 21000) of the Public Resources Code does not apply to the adoption of an ordinance, rule, or regulation by a local jurisdiction that requires discretionary review and approval of permits, licenses, or other authorizations to engage in commercial cannabis activity. To qualify for this exemption, the discretionary review in any such law, ordinance, rule, or regulation shall include any applicable environmental review pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code. This subdivision shall become inoperative on July 1, 2019.

This temporary CEQA exemption will expire on July 1, 2019, and participants in the commercial cannabis industry may be subject to CEQA requirements to obtain the annual permits and licenses. CEQA requires state and local agencies to identify projects with potentially significant environmental impacts and to mitigate the impacts. The

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Bureau of Cannabis Control (BCC) regulations at 16 CCR 5010 define a CEQA "project" as:

§ 5010. Compliance with the California Environmental Quality Act (CEQA).

*For purposes of complying with the California Environmental Quality Act (CEQA):
"Project" means the commercial cannabis activity or activities for which an annual license application is submitted to the Bureau and which requires the Bureau to engage in discretionary review.*

Implications

And there you have the problem with the temporary exemption. A commercial cannabis entity will need to comply with CEQA and obtain an annual license before the CEQA temporary exemption option disappears on July 1, 2019, unless extended by the legislature. Temporary permit holders should quickly determine if they need to conduct a CEQA review or if they will be exempt from CEQA for other reasons. Without CEQA compliance, entities will not be able to obtain a permit to operate.

Projects may be exempt from CEQA for a number of reasons. The BCC has a [CEQA Exemption Petition \(form 26\)](#) that lists possible exemptions. Projects that are not exempt, may be able to tier from programmatic CEQA documents, such as the ones done by CalCannabis and BCC.

Bottom line: in order to obtain an annual permit a commercial cannabis entity will need to comply with CEQA, and CEQA compliance can take time. With the current temporary permit/license, CEQA exemption expiring on July 1, 2019, industry participants must quickly determine the status of their license and operating requirements and take action to comply with CEQA to get a permit or license if necessary.

Beveridge & Diamond's [NEPA and Historic Preservation Reviews](#) practice group has been involved with NEPA and state analogues (like New York's SEQRA and California's CEQA) since the earliest implementation of these statutes. We help clients navigate the environmental review and permitting process to help them build their projects. For more information, please contact the authors.

Possession, use, distribution, and sale of cannabis may be a federal crime. This alert is not intended to provide any guidance or assistance in violating federal law, or in providing guidance or assistance in complying with federal law.

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