

Emergency Justification

The Cannabis Control Board (the Board) has determined it necessary to adopt this emergency rule allowing the Office of Cannabis Management (the Office) to take punitive action against any person issued a license, registration, or permit by the Board who is found to be in violation of Cannabis Law or other applicable regulations, and to take action against unlicensed cannabis businesses and other unregulated activities by extending Part 133 Emergency Regulations. The adoption of this emergency rule is necessary to protect the public health, safety and welfare by ensuring cannabis products meet the health and safety standards established by the Board. These emergency regulations include substantive changes incorporating public feedback as Part 133 makes its way through the SAPA process. Due to the substantive nature of these changes to the current emergency regulations, these emergency regulations would be considered a new emergency regulation filing pursuant to Cannabis Law §13(5), starting the time allotted for emergency filings to be 120 days and a readoption of another 120 days should the Board determine it is necessary. Revised Part 133 will be issued simultaneously with these emergency regulations.

The Board voted to adopt the two emergency rules which added §§133.1 to 133.22 to Title 9 NYCRR (published and effective on April 6th, 2023 and set to expire on August 4th, 2023: which authorizes the Office to initiate investigations against licensed entities that result in a range of categorized violation by severity, where the violation is an immediate and severe threat to public health and safety and emergency action is warranted, including summary suspension, to where the violation is inconsistent with the orderly operation of a regulated business; empower the Office to seize any and all cannabis and cannabis products from unlicensed entities, as well as

require such entity to cease all cannabis related activity; authorize the Office to refer such investigations to the Department of Taxation and Finance, the district attorney, or any other civil or criminal investigative or enforcement agencies; and provide the Office with the ability to hold hearings in response to violations of the Cannabis Laws, related regulations or guidance, or of this emergency rule) and §133.23 to Title 9 NYCRR (published and effective on June 6th, 2023 and set to expire on October 4th, 2023: which allows the Office to send duly authorized representatives to issue notices of violation and orders to cease unlicensed and unregulated activity and apply warning notices on the premises of unlicensed cannabis businesses, to make known to the public which businesses are dangerous to consumers due to their sales of unregulated cannabis or cannabinoid hemp products).

It is essential to continue to allow for this activity to occur as many of these processes have begun and are still in the process. Without these emergency regulations, this entire process would not have the legal foundation necessary to create a stable and effective enforcement process to ensure that the Legislature's intentions, which are to decriminalize, regulate, control, and tax adult-use cannabis and cannabis products, generate significant new revenue, make substantial investments in communities and people most impacted by cannabis criminalization, and reduce participation of otherwise law-abiding citizens in the unlawful market, are accomplished.