

STD. 400 (REV. 01-2013)

# EMERGENCY

OAL FILE NUMBERS <b>Z-</b>	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER <b>2018-0525-03EE</b>
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For use by Office of Administrative Law (OAL) only

2018 MAY 25 A 10: 07  
OFFICE OF ADMINISTRATIVE LAW

NOTICE

REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY  
Department of Food and Agriculture

AGENCY FILE NUMBER (if any)

### A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE

### B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Cannabis Cultivation Licensing	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2017-1127-02E
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SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT See attached
	AMEND
	REPEAL
TITLE(S) 3	

3. TYPE OF FILING

<input type="checkbox"/> Regular Rulemaking (Gov. Code § 11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§ 11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input checked="" type="checkbox"/> Emergency Readopt (Gov. Code, § 11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§ 11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, § 11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, § 11346.1(b))		<input checked="" type="checkbox"/> Other (Specify) <u>Bus. &amp; Prof. Code sec. 26013(b)(3)</u>	

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, § 44 and Gov. Code § 11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, § 100)

Effective January 1, April 1, July 1, or October 1 (Gov. Code § 11343.4(a))  Effective on filing with Secretary of State  \$100 Changes Without Regulatory Effect  Effective other (Specify) June 6, 2018

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

Department of Finance (Form STD. 399) (SAM § 6660)  Fair Political Practices Commission  State Fire Marshal

Other (Specify) See attached

7. CONTACT PERSON Amanda Brown	TELEPHONE NUMBER 916-263-0801	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) amanda.brown@cdfa.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>Kevin Masuhara</i>	DATE <u>5/16/18</u>
TYPED NAME AND TITLE OF SIGNATORY Kevin Masuhara, Deputy Secretary	

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**Adopt:**

Sections 8000, 8100, 8101, 8102, 8103, 8104, 8105, 8106, 8107, 8108, 8109, 8110, 8111, 8112, 8113, 8114, 8115, 8200, 8201, 8202, 8203, 8204, 8205, 8206, 8207, 8208, 8209, 8210, 8211, 8212, 8213, 8214, 8215, 8216, 8300, 8301, 8302, 8303, 8304, 8305, 8306, 8307, 8308, 8400, 8402, 8403, 8404, 8405, 8406, 8407, 8408, 8409, 8500, 8501, 8600, 8601, 8602, 8603, 8604, 8605, 8606, 8607, and 8608.

The proposed emergency regulations required consultation with other state agencies pursuant to the authorities found in the California Business and Professions Code (BPC). The California Department of Food and Agriculture met those consultation requirements through a series of meetings, conference calls, and consistent communication with the required agencies throughout the development of these proposed emergency regulations.

Specifically, the California State Water Resources Control Board and the California Department of Fish and Wildlife were consulted pursuant to BPC sections 26051.5(b)(7), 26060.1(c), and 26069(c)(1). The Bureau of Cannabis Control was consulted pursuant to BPC sections 26060, 26060.1, 26067(a), 26068(b), and 26069(c)(1). The California Department of Tax and Fee Administration (formerly known as the California State Board of Equalization) was consulted pursuant to BPC sections 26067(b)(1) and 26068(a).

The underlying emergency text is not illustrated in underlining and strikeout, but is being re-adopted as part of this action. Modifications to the underlying emergency text are illustrated in underlining and strikeout. The complete text, including the underlying emergency text and the modifications to it, are subject to public comment.

## TEXT OF EMERGENCY REGULATIONS

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Changes are indicated by strikeout and underline.

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CALIFORNIA CODE OF REGULATIONS  
TITLE 3. FOOD AND AGRICULTURE  
DIVISION 8. CANNABIS CULTIVATION  
CHAPTER 1. CANNABIS CULTIVATION PROGRAM

### Article 1. Definitions

#### § 8000. Definitions.

The following definitions, in addition to those stated in section 26001 of the Business and Professions Code, apply to this chapter.

- (a) "Act" means the Medicinal and Adult-Use Cannabis Regulation and Safety Act, division 10, chapter 1 (commencing with section 26000) of the Business and Professions Code.
- (b) "Applicant" means an owner of the applicant entity applying for a state license pursuant to this division.
- (c) "Applicant entity" means the entity applying for a state cannabis cultivation license.
- (d) "Batch" or "harvest batch" means a specifically identified quantity of dried flower or trim, leaves, and other cannabis plant matter that is uniform in strain, harvested in whole, or in part, at the same time, and, if applicable, cultivated using the same pesticides and other agricultural chemicals.
- (e) "Bureau" means the Bureau of Cannabis Control within the Department of Consumer Affairs, formerly named the Bureau of Marijuana Control, the Bureau of Medical Cannabis Regulation, and the Bureau of Medical Marijuana Regulation.
- (f) "Canopy" means the designated area(s) at a licensed premises, except nurseries and processors, that will contain mature plants at any point in time, as follows:
  - (1) Canopy shall be calculated in square feet and measured using clearly identifiable boundaries of all area(s) that will contain mature plants at any point in time, including all of the space(s) within the boundaries;
  - (2) Canopy may be noncontiguous but each unique area included in the total canopy calculation shall be separated by an identifiable boundary that includes, but is not limited to, interior walls, shelves, greenhouse walls, hoop house walls, garden benches, hedgerows, fencing, garden beds, or garden plots; and
  - (3) If mature plants are being cultivated using a shelving system, the surface area of each level shall be included in the total canopy calculation.
- (g) "Commercial cannabis activity" includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale of cannabis and cannabis products as provided

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- for this chapter.
- (h) "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.
  - (i) "Cultivation site" means a location where commercial cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or a location where any combination of those activities occurs ~~that does all or any combination of those activities.~~
  - (j) "Department" means the California Department of Food and Agriculture.
  - (k) "Dried flower" means all dead cannabis that has been harvested, dried, cured, or otherwise processed, excluding leaves and stems.
  - (l) "Flowering" means that a cannabis plant has formed a mass of pistils measuring greater than one half inch wide at its widest point.
  - (m) "Immature plant" or "immature" means a cannabis plant that is not flowering.
  - (n) "Indoor cultivation" means the cultivation of cannabis within a permanent structure using exclusively artificial light or within any type of structure using artificial light at a rate above twenty-five watts per square foot.
  - (o) "Kief" means the resinous trichomes of cannabis that may accumulate in containers or be sifted from loose, dry cannabis flower with a mesh screen or sieve.
  - (p) "Licensee" means any person holding a license pursuant to this chapter.
  - (q) "Light deprivation" means the elimination of natural light in order to induce flowering, using black out tarps or any other opaque covering.
  - (~~qr~~) "Lot" means a batch, or a specifically identified portion of a batch.
  - (~~rs~~) "Mature plant" means a cannabis plant that is flowering.
  - (~~st~~) "Mixed-light cultivation" means the cultivation of mature cannabis in a greenhouse, hoop-house, glasshouse, conservatory, hothouse, or other similar structure using light deprivation and/or one of the artificial lighting models described below:
    - (1) "Mixed-light Tier 1" the use of artificial light at a rate of six watts per square foot or less;
    - (2) "Mixed-light Tier 2" the use of artificial light at a rate above six and below or equal to twenty-five watts per square foot.
  - (~~tu~~) "Net weight" means the weight of harvested cannabis and cannabis products that meet the requirements in section 8406(b).
  - (~~uv~~) "Nonmanufactured cannabis product" means flower, shake, kief, leaf, and pre-rolls.
  - (~~wx~~) "Nursery" means a licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the propagation and cultivation of cannabis.
  - (~~wx~~) "Outdoor cultivation" means the cultivation of mature cannabis without the use of artificial lighting in the canopy area

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at any point in time. Artificial lighting is permissible only to maintain immature plants.

(~~xy~~) "Pest" means any of the following that is, or is liable to become, dangerous or detrimental to the agricultural or nonagricultural environment of the state:

- (1) Any insect, predatory animal, rodent, nematode or weed; and
- (2) Any form of terrestrial, aquatic, or aerial plant or animal virus, fungus, bacteria, or other microorganism (except viruses, fungi, bacteria, or other microorganisms on or in living man or other living animals).

(~~yz~~) "Premises" means the designated structure or structures and land specified in the application that is owned, leased, or otherwise held under the control of the applicant or licensee where the commercial cannabis activity will be or is conducted. The premises shall be a contiguous area and shall only be occupied by one licensee.

(~~zaa~~) "Pre-roll" means nonmanufactured cannabis product(s) rolled in paper.

(~~aab~~) "Process~~z~~," "Processing~~z~~," and "Processes" means all activities associated with drying, curing, grading, trimming, rolling, storing, packaging, and labeling of nonmanufactured cannabis products.

(~~abc~~) "Track-and-trace system" means the state-approved system used to track commercial cannabis activity and movement.

(~~ead~~) "Unique identifier" or "UID" means an alphanumeric code or designation used for reference to a specific plant on a licensed premises and any cannabis or cannabis product derived or manufactured from that plant.

(~~ead~~) "Watts per square foot" means the sum of the maximum wattage of all lights identified in the designated canopy area(s) in the cultivation plan divided by the sum of the dimensions in square feet of designated canopy area(s) identified in the cultivation plan.

(~~eaf~~) "Wet weight" means the weight of harvested, non-dried cannabis, on the licensed premises or being transported between licensees, that do not meet the net weight requirements in section 8406(b).

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26001, and 26013, Business and Professions Code; and Section 12754.5, Food and Agricultural Code.

### Article 2. Applications.

#### § 8100. Temporary Licenses.

A temporary license is a conditional license that authorizes the licensee to engage in commercial cannabis activity as a licensee would be permitted to do under the privileges of an annual license of the same type. A temporary licensee shall follow all applicable statutes and regulations as a licensee would be required to do if the licensee held an annual license of the same type.

- (a) Temporary license applications shall be completed and submitted online at [calcannabis.cdfa.ca.gov](http://calcannabis.cdfa.ca.gov) or mailed to the department at P.O. Box 942871, Sacramento, CA 94271.

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- (b) An application for a temporary cultivation license shall include the following:
- (1) The license type, pursuant to section 8201 of this chapter, for which the applicant is applying and whether the application is for an M-license or A-license;
  - (2) If the applicant has already submitted an application for annual licensure, the application number;
  - (3) The legal business name of the applicant entity;
  - (4) The full legal name, mailing address, phone number, email address, and affiliation of the designated responsible party who shall:
    - (A) Be an owner with legal authority to bind the applicant entity;
    - (B) Serve as agent for service of process; and
    - (C) Serve as primary contact for the application.
  - (5) The physical address of the premises;
  - (6) A copy of a valid license, permit, or other authorization, issued by a local jurisdiction, that enables the applicant entity to conduct commercial cannabis activity at the location requested for the temporary license. For the purposes of this section, "other authorization" shall include, at a minimum, a written statement or reference that clearly indicates the local jurisdiction intended to grant permission to the applicant entity to conduct commercial cannabis activity at the premises.
  - (7) A proposed cultivation plan pursuant to section 8106 of this chapter;
  - (8) Identification of all of the following applicable water sources used for cultivation activities and the applicable supplemental information for each source pursuant to section 8107 of this chapter:
    - (A) A retail water supplier;
    - (B) A groundwater well;
    - (C) A rainwater catchment system;
    - (D) A diversion from a surface waterbody or an underground stream flowing in a known and definite channel.
  - (9) Evidence of enrollment with the applicable Regional Water Quality Control Board or State Water Resources Control Board for water quality protection programs or written verification from the appropriate board that enrollment is not necessary.
- (c) When the applicant provides a license, permit, or other authorization from the local jurisdiction where the licensed premises will be or is located, the department shall notify the contact person for the local jurisdiction pursuant to section 26055 of the Business and Professions Code. If the local jurisdiction does not respond to the department's notification within ten (10) calendar days, the department may issue a temporary license to the applicant.
- (d) A temporary license issued pursuant to this chapter shall be valid for one-hundred twenty (120) days from the effective date. No temporary license shall be effective prior to January 1, 2018.
- (e) A temporary license may be extended for additional ninety (90) day periods if a complete application for licensure has



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been submitted to the department pursuant to section 8102 of this chapter.

- (f) A temporary license does not obligate the department to issue an annual license nor does the temporary license create a vested right in the holder to either an extension of the temporary license or to the granting of a subsequent annual license.
- (g) Temporary applications and licenses are exempt from fees.
- (h) This section shall remain in effect until January 1, 2019.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013, 26050.1, and 26055, Business and Professions Code.

### § 8101. Annual License Application Fees.

The following are nonrefundable application fees for the specified annual license type and shall be paid by the applicant at the time the complete application is submitted to the department:

(a) Specialty Cottage Outdoor	\$135
(b) Specialty Cottage Indoor	\$205
(c) Specialty Cottage Mixed-Light Tier 1	\$340
(d) Specialty Cottage Mixed-Light Tier 2	\$580
(e) Specialty Outdoor	\$270
(f) Specialty Indoor	\$2,170
(g) Specialty Mixed-Light Tier 1	\$655
(h) Specialty Mixed-Light Tier 2	\$1,125
(i) Small Outdoor	\$535
(j) Small Indoor	\$3,935
(k) Small Mixed-Light Tier 1	\$1,310
(l) Small Mixed-Light Tier 2	\$2,250
(m) Medium Outdoor	\$1,555
(n) Medium Indoor	\$8,655
(o) Medium Mixed-Light Tier 1	\$2,885
(p) Medium Mixed-Light Tier 2	\$4,945
(q) Nursery	\$520
(r) Processor	\$1,040

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Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26012, 26013, 26050, and 26061, Business and Professions Code.

### § 8102. Annual License Application Requirements.

Applications for a cultivation license shall be completed and submitted online at [calcannabis.cdfa.ca.gov](http://calcannabis.cdfa.ca.gov) or by mailing a hard copy of the application to the department at P.O. Box 942872, Sacramento, CA 94271-2872. Application fees, pursuant to section 8101 of this chapter, shall accompany the applications submitted online at [calcannabis.cdfa.ca.gov](http://calcannabis.cdfa.ca.gov) or by mail to the department at P.O. Box 942872, Sacramento, CA 94271-2872. Applications shall include the following, if applicable:

- (a) The legal business name of the applicant entity.
- (b) The license type, pursuant to ~~in~~ section 8201 of this chapter, for which the applicant is applying and whether the application is for an M-license or A-license;
- (c) A list of all ~~the~~ valid commercial cannabis license types, the applicant entity holds and the associated ~~including the~~ license numbers ~~of valid licenses,~~ from the department and other cannabis licensing authorities; ~~that the applicant already holds;~~
- (d) The physical address of the premises;
- (e) The mailing address of the applicant entity;
- (f) A designated responsible party, who shall also be an owner, with legal authority to bind the applicant entity, and the primary contact for the application. The following information shall be provided for the designated responsible party: full legal name, title, mailing address, primary contact phone number, email address, and a copy of the owner's government-issued identification. Acceptable forms of identification are a document issued by a federal, state, county, or municipal government, including, but not limited to, a driver's license, that contains the name, date of birth, physical description, and picture of the individual;
- (g) An individual or entity serving as agent for service of process for the applicant. The following information shall be provided for the agent for service of process: full legal name, mailing address, primary contact phone number, and email address;
- (h) A complete list of every owner of the applicant entity pursuant to section 8103 of this chapter. Each individual owner named shall submit the following information:
  - (1) Full legal name;
  - (2) Title within the applicant entity;
  - (3) Date of birth;
  - (4) Social security number or individual taxpayer identification number;
  - (5) Home address;
  - (6) Primary phone number;

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- (7) Email address;
- (8) Date ownership interest in the applicant entity was acquired;
- (9) Percentage of the ownership interest held in the applicant entity by the owner;
- (10) A list of all the valid licenses, including license type(s) and license number(s), from the department and other cannabis licensing authorities that the owner is listed as either an owner or financial interest holder;
- (11) A copy of their government-issued identification. Acceptable forms of identification are a document issued by a federal, state, county, or municipal government, including ~~that includes~~ but not limited to, a driver's license, that contains the name, date of birth, physical description, and picture of the ~~person individual, such as a driver's license.~~
- (12) If applicable, a detailed description of criminal convictions. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Convictions dismissed under sections 1203.4, 1203.4a and 1203.41 of the Penal Code or equivalent non-California law shall be disclosed. Juvenile adjudications and traffic infractions do not need to be included. For each conviction, all of the following shall be provided:
  - (A) The date of conviction;
  - (B) Date(s) of incarceration, if applicable;
  - (C) Date(s) of probation, if applicable;
  - (D) Date(s) of parole, if applicable;
  - (E) A detailed description of the offense for which the owner was convicted; and
  - (F) A statement of rehabilitation for each conviction. The statement of rehabilitation is to be written by the owner and may contain evidence that the owner would like the department to consider that demonstrates the owner's fitness for licensure. Supporting evidence may be attached to the statement of rehabilitation and may include, but is not limited to, a certificate of rehabilitation under section 4852.01 of the Penal Code, dated letters of reference from employers, instructors, or professional counselors that contain valid contact information for the individual providing the reference.
- (13) A copy of their completed application for electronic fingerprint images submitted to the Department of Justice.
- (i) A complete list of financial interest holders pursuant to section 8103 of this chapter, including the following information for:
  - (1) Individuals: full legal name, tax identification number (social security number, individual taxpayer identification number, or national ~~identification~~ identification number), government identification number, and type of government identification; and
  - (2) Business entities: legal business name and employer identification number.
- (j) Copies of all formation documents, ~~filed with the California Secretary of State~~, which may include, but are not limited

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to, articles of incorporation, operating agreement, partnership agreement, and fictitious business name statement. The applicant shall also provide all documents filed with the California Secretary of State, which may include, but are not limited to, articles of incorporation, certificate of stock, articles of organization, certificate of limited partnership, and statement of partnership authority. If an applicant is a foreign corporation, a certificate of qualification issued by the California Secretary of State ~~pursuant to section 2105 of the Corporations Code;~~

- (k) A valid seller's permit number issued by the California Department of Tax and Fee Administration, or confirmation from the California Department of Tax and Fee Administration that a seller's permit is not needed. If the applicant entity has not yet received a seller's permit, the applicant entity shall attest that they are currently applying for a seller's permit;
- (l) For applicants that are a cannabis cooperative as defined by division 10, chapter 22 (commencing with section 26220) of the Business and Professions Code, identification of all members;
- (m) Evidence that the applicant entity has the legal right to occupy and use the proposed location pursuant to section 8104 of this chapter;
- (n) Evidence of having obtained a surety bond in the amount of not less than \$5,000, payable to the department in a form prescribed by the department pursuant to Title 11 of the California Code of Regulations section 26.20. The bond shall be issued by a corporate surety licensed to transact surety business in the State of California;
- (o) Evidence of enrollment with the applicable Regional Water Quality Control Board or State Water Resources Control Board for water quality protection programs or written verification from the appropriate board that enrollment is not necessary;
- (p) Evidence that the applicant has conducted a hazardous materials record search of the EnviroStor database for the proposed premises. If hazardous sites were encountered, the applicant shall provide documentation of protocols implemented to protect employee health and safety;
- (q) Evidence of exemption from, or compliance with, division 13 (commencing with section 21000) of the Public Resources Code, California Environmental Quality Act (CEQA). The evidence provided shall be one of the following:
  - (1) A copy of the applicant's license, permit, or other authorization from the local jurisdiction, if the local jurisdiction has adopted an ordinance, rule, or regulation pursuant to section 26055(h) of the Business and Professions Code that requires discretionary review and approval of permits, licenses, or other authorizations to engage in commercial cannabis activity and evidence of discretionary review conducted by the local jurisdictions;
  - (2) A copy of the Notice of Determination or Notice of Exemption and a copy of the CEQA document, or reference to where it can be located electronically, if the applicant does not wish to provide a copy of the license, permit, or other authorization provided by the local jurisdiction or if the local jurisdiction has not adopted an ordinance, rule, or regulation pursuant to section 26055(h) of the Business and Professions Code that requires discretionary review and approval of permits, licenses, or other authorizations to engage in commercial cannabis activity;
  - (3) If an applicant does not have the evidence specified in subsections (1) or (2), or if the local jurisdiction did not

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prepare a CEQA document, the applicant will be responsible for the preparation of an environmental document in compliance with CEQA that can be approved or certified by the department, unless the department specifies otherwise.

- (r) For indoor and mixed-light license types, identification of all power sources for cultivation activities, including but not limited to, illumination, heating, cooling, and ventilation;
- (s) A property diagram pursuant to section 8105 of this chapter;
- (t) A proposed cultivation plan pursuant to section 8106 of this chapter;
- (u) Identification of all of the following applicable water sources used for cultivation activities and the applicable supplemental information for each source pursuant to section 8107 of this chapter:
  - (1) A retail water supplier;
  - (2) A groundwater well;
  - (3) A rainwater catchment system;
  - (4) A diversion from a surface waterbody or an underground stream flowing in a known and definite channel;
- (v) A copy of any final lake or streambed alteration agreement issued by the California Department of Fish and Wildlife, pursuant to sections 1602 or 1617 of the Fish and Game Code, or written verification from the California Department of Fish and Wildlife that a lake and streambed alteration agreement is not required;
- (w) An attestation that the proposed location is at least a six-hundred (600) foot radius from a school providing instruction in kindergarten or any grades one (1) through twelve (12), or a day care center or youth center as defined in section 26001 of the Business and Professions Code, that is in existence at the time the application is submitted, or that the premises complies with a local ordinance specifying a different radius. The distance shall be measured in the same manner as provided in subsection (c) of section 11362.768 of the Health and Safety Code unless otherwise provided by law;
- (x) An attestation that they will enter into, or have already entered into, and will abide by the terms of a labor peace agreement if the applicant entity will have twenty (20) or more employees on payroll at any one time;
- (y) An attestation that the applicant entity is an "agricultural employer" as defined by the Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations Act of 1975; division 2, part 3.5 (commencing with section 1140) of the Labor Code;
- (z) An attestation that the local fire department has been notified of the cultivation site if the applicant entity is an indoor license type;
- (aa) Any applicant that may fall within the scope of sovereign immunity that may be asserted by a federally recognizable tribe or other sovereign entity shall waive any sovereign immunity defense that the applicant may have, may be asserted on its behalf, or may otherwise be asserted in any state or local administrative or judicial enforcement actions against the applicant or licensee, regardless of the form of relief sought, whether monetary or otherwise, under the state laws and regulations governing commercial cannabis activity, and shall provide documentation as may be

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requested by the department that establishes that the applicant has the lawful authority to enter into the waiver described above and has effectively done so. The limited waiver of sovereign immunity shall meet the requirements of the following:

- (1) The written limited waiver shall include that the applicant or licensee has the lawful authority to enter into the waiver required by this section, the applicant or licensee hereby waives sovereign immunity, and the applicant or licensee agrees to do all of the following:
    - (A) Provide documentation to the department that establishes that the applicant or licensee has the lawful authority to enter into the waiver required by this section;
    - (B) Conduct all commercial cannabis activity in full compliance with the state laws and regulations governing commercial cannabis activity, including submission to all enforcement provisions thereof;
    - (C) Allow access as required by statute or regulation by persons or entities charged with duties under the state laws and regulations governing commercial cannabis activity to any premises or property at which the applicant conducts any commercial cannabis activity, including premises or property where records of commercial cannabis activity are maintained by or for the applicant or licensee;
    - (D) Provide any and all records, reports, and other documents as may be required under the state laws and regulations governing commercial cannabis activity;
    - (E) Conduct commercial cannabis activity with other state commercial cannabis licensees only, unless otherwise specified by state law;
    - (F) Meet all of the requirements for licensure under state laws and regulations governing the conduct of commercial cannabis activity, and provide truthful and accurate documentation and other information of the applicant's qualifications and suitability for licensure as may be requested by the department;
    - (G) Submit to the personal and subject matter jurisdiction of the California courts to address any matter related to the waiver or commercial cannabis application, license, or activity, and that all such matters and proceedings shall be governed, construed and enforced in accordance with California substantive and procedural law, including but not limited to the Act;
  - (2) Any applicant or licensee shall immediately notify the department of any changes that may materially affect the applicant and licensee's compliance with subsection (1).
  - (3) Any failure by an applicant or licensee to comply with the requirements of subsections (1) and (2) shall be a basis for denial of an application or renewal or discipline of a licensee.
- (bb) The department shall not approve an application for a state license if approval of the license would violate the provisions of any local ordinance or regulation adopted in accordance with section 26200 of the Business and Professions Code by a county or, if within a city, a city, within which the licensed premises is to be located.

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Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013, 26051.5, 26054, 26055, 26060.1, 26066, Business and Professions Code.

### § 8103. Owners and Financial Interests Holders.

(a) "Owner" means any of the following:

- (1) A person with an aggregate ownership interest of twenty (20) percent or more in the person applying for a license or a licensee, unless the interest is solely a security, lien, or encumbrance;
- (2) The chief executive officer of a nonprofit or other entity;
- (3) A member of the board of directors of a nonprofit;
- (4) An individual who will be participating in the direction, control, or management of the person applying for a license.

(b) An owner who is an individual participating in the direction, control, or management of the commercial cannabis business includes any of the following:

- (1) A partner of a commercial cannabis business that is organized as a partnership;
- (2) A managing member of a limited liability company of a commercial cannabis business that is organized as a limited liability company;
- (3) An officer or director of a commercial cannabis business that is organized as a corporation.

(c) All individuals and business entities that have a financial interest in a commercial cannabis business but are not owners as defined in subsections (a) or (b) of this section shall be listed on an application for licensure under section 8102 (i) of this chapter. "Financial interest" means an investment into a commercial cannabis business, a loan provided to a commercial cannabis business, or any other fully-vested equity interest in a commercial cannabis business.

(d) Notwithstanding subsections (a), (b), or (c), the following are not considered to be owners or financial interest holders:

- (1) A bank or financial institution whose interest constitutes a loan;
- (2) Persons whose only financial interest in the commercial cannabis business is through an interest in a diversified mutual fund, blind trust, or similar instrument;
- (3) Persons whose only financial interest is a security, lien, or encumbrance on property that will be used by the commercial cannabis business; and
- (4) Persons who hold a share of stock that is less than five (5) percent of the total shares in a publicly traded company.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26001, 26013, and ~~26051~~ 26051.5, Business and Professions Code.

### § 8104. Legal Right to Occupy.

(a) If the applicant is the owner of the property on which the premises is located, the applicant shall provide to the

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department a copy of the title or deed to the property.

- (b) If the applicant is not the owner of the property upon which the premises is located, the applicant shall provide the following to the department:
- (1) A document from the property owner or property owner's agent where the commercial cannabis activity will occur that states the applicant has the right to occupy the property and acknowledges that the applicant may use the property for commercial cannabis cultivation;
  - (2) The property owner's mailing address and phone number; and
  - (3) A copy of the lease or rental agreement, or other contractual documentation.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013 and 26051.5, Business and Professions Code.

### § 8105. Property Diagram.

A property diagram shall be submitted with each application and shall contain the following:

- (a) Boundaries of the property and the proposed premises wherein the license privileges will be exercised with sufficient detail to enable ready determination of the bounds of the premises showing all perimeter dimensions, entrances, and exits to both the property and premises;
- (b) If the proposed premises consists of only a portion of a property, the diagram shall be labeled indicating which part of the property is the proposed premises and what the remaining property is used for;
- (c) All roads and water crossings on the property;
- (d) If the applicant is proposing to use a diversion from a waterbody, groundwater well, or rain catchment system as a water source for cultivation, include the following locations on the property diagram with locations also provided as coordinates in either latitude and longitude or the California Coordinate System:
  - (1) Sources of water used, including the location of waterbody diversion(s), pump location(s), and distribution system; and
  - (2) Location, type, and capacity of each storage unit to be used for cultivation.
- (e) The assessor's parcel number(s);
- (f) The diagram shall be to scale; and
- (g) The diagram shall not contain any highlighting.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26012, 26013, 26051.5, and 26060 26060.1, Business and Professions Code.



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### § 8106. Cultivation Plan Requirements.

(a) The cultivation plan for Specialty Cottage, Specialty, Small, and Medium licenses shall include all of the following:

(1) A detailed premises diagram showing all boundaries and dimensions in feet of the following proposed areas to scale:

(A) Canopy area(s), including aggregate square footage if the canopy areas are noncontiguous; All unique areas separated by identifiable boundaries pursuant to section 8000(f) shall be clearly described and labeled in the premises diagram;

(B) Area(s) outside of the canopy where only immature plants shall be maintained, if applicable;

(C) Designated pesticide and other agricultural chemical storage area(s);

(D) Designated processing area(s) if the licensee will process on site;

(E) Designated packaging area(s) if the licensee will package products on site;

(F) Designated composting area(s) if the licensee will compost cannabis waste on site;

(G) Designated secured area(s) for cannabis waste if different than subsection (F) above;

(H) Designated area(s) for harvested cannabis storage; and

(2) For indoor and mixed-light license type applications, a lighting diagram with the following information shall be included:

(A) Location of all lights in the canopy area(s); and

(B) Maximum wattage, or wattage equivalent, of each light.

(3) A pest management plan which shall include, but not be limited to, the following:

(A) Product name and active ingredient(s) of all pesticides to be applied to cannabis during any stage of plant growth; and

(B) Integrated pest management protocols, including chemical, biological, and cultural methods the applicant anticipates using to control or prevent the introduction of pests on the cultivation site.

(4) A cannabis waste management plan meeting the requirements of section 8108 of this chapter.

(b) The cultivation plan for nursery licenses shall include the following information:

(1) A detailed premises diagram showing all boundaries and dimensions, in feet, of the following proposed areas to scale:

(A) Area(s) which shall contain only immature plants;

(B) Designated research and development area(s) which may contain mature plants;

(C) Designated seed production area(s) which may contain mature plants;

(D) Designated pesticide and other agricultural chemical storage area(s);

(E) Designated composting area(s) if the licensee will compost cannabis waste on site; and

(F) Designated secured area(s) for cannabis waste if different than subsection (E) above.

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- (2) A pest management plan that shall include, but not be limited to, the following:
  - (A) Product name and active ingredient(s) of all pesticides to be applied to cannabis ~~during any stage of plant growth at any time~~; and
  - (B) Integrated pest management protocols, including chemical, biological, and cultural methods the applicant anticipates using to control or prevent the introduction of pests on the cultivation site.
- (3) A cannabis waste management plan pursuant to section 8108 of this chapter.
- (c) The cultivation plan for processor licenses shall include a detailed premises diagram showing all boundaries and dimensions, in feet, of the following proposed areas:
  - (1) Designated processing area(s);
  - (2) Designated packaging area(s), if the licensee will package and label products on site;
  - (3) Designated composting area(s) if the licensee will compost cannabis waste on site;
  - (4) Designated secured area(s) for cannabis waste if different than subsection (3) above; and;
  - (5) Designated area(s) for harvested cannabis storage;
  - (6) A cannabis waste management plan pursuant to section 8108 of this chapter.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26012, 26013, 26051.5, 26060, and 26060.1, Business and Professions Code.

### § 8107. Supplemental Water Source Information.

The following information shall be provided for each water source identified by the applicant:

- (a) Retail water supply sources:
  - (1) If the water source is a retail water supplier, as defined in section 13575 of the Water Code, such as a municipal provider, identify the retail water supplier.
  - (2) If the water source is a small retail water supplier, such as a delivery service, and is subject to subsection (a)(1)(B) of section 26060.1 of the Business and Professions Code:
    - (A) If the retail water supplier contract is for delivery or pickup of water from a surface water body or an underground stream flowing in a known and definite channel, provide all of the following:
      - (i) The name of the retail water supplier under the contract;
      - (ii) The geographic location coordinates in either latitude and longitude or the California Coordinate System of any point of diversion used by the retail water supplier to divert water delivered to the applicant under the contract;
      - (iii) The authorized place of use of any water right used by the retail water supplier to divert water delivered to the applicant under the contract; and

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- (iv) The maximum amount of water delivered to the applicant for cannabis cultivation in any year.
- (B) If the retail water supplier contract is for delivery or pickup of water from a groundwater well, provide all of the following:
- (i) The name of the retail water supplier;
  - (ii) The geographic location coordinates for any groundwater well used to supply water delivered to the applicant, in either latitude and longitude or the California Coordinate System;
  - (iii) The maximum amount of water delivered to the applicant for cannabis cultivation in any year; and
  - (iv) A copy of the well log filed with the Department of Water Resources pursuant to section 13751 of the Water Code for each percolating groundwater well used to divert water delivered to the applicant. If no well log is available, the applicant shall provide evidence from the Department of Water Resources indicating that the Department does not have a record of the well log. When no well log is available, the State Water Resources Control Board may request additional information about the well.
- (b) If the water source is a groundwater well:
- (1) The groundwater well's geographic location coordinates in either latitude and longitude or the California Coordinate System; and
  - (2) A copy of the well log filed with the Department of Water Resources pursuant to section 13751 of the Water Code. If no well log is available, the applicant shall provide evidence from the Department of Water Resources indicating that the Department of Water Resources does not have a record of the well log. If no well log is available, the State Water Resources Control Board may request additional information about the well.
- (c) If the water source is a rainwater catchment system:
- (1) The total square footage of the catchment footprint area(s);
  - (2) The total storage capacity, in gallons, of the catchment system(s); and
  - (3) A detailed description of the type, nature, and location of each catchment surface. Examples of catchment surfaces include a rooftop and greenhouse.
- (d) If the water source is a diversion from a waterbody, provide any applicable statement, application, permit, license, or small irrigation use registration identification number(s), and either:
- (1) A copy of any applicable registrations, permits, or licenses or proof of a pending application, issued under part 2 (commencing with section 1200) of division 2 of the California Water Code as evidence of approval of a water diversion by the State Water Resources Control Board;
  - (2) A copy of any statements of diversion and use filed with the State Water Resources Control Board before October 31, 2017 detailing the water diversion and use; or
  - (3) A copy of documentation submitted to the State Water Resources Control Board before October 31, 2017 demonstrating that the diversion is authorized under a riparian right and that no diversion occurred in any calendar

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year between January 1, 2010 and January 1, 2017.

- (4) If the applicant has claimed an exception from the requirement to file a statement of diversion and use pursuant to section 5101 of the Water Code, the applicant shall provide a copy of the documentation submitted to the State Water Resources Control Board before January 1, 2019 demonstrating that the diversion is subject to subsection (a), (c), (d), or (e) of section 5101 of the Water Code.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013 and 26060.1, Business and Professions Code; and ~~Section 13149, Water Code.~~

### § 8108. Cannabis Waste Management Plan.

For the purposes of this section, "cannabis waste" is organic waste, as defined in section 42649.8(c) of the Public Resources Code. An applicant's cannabis waste management plan shall identify one or more of the following methods for managing cannabis waste generated on their licensed premises:

- (a) On-premises composting of cannabis waste;
- (b) Collection and processing of cannabis waste by a local agency, a waste hauler franchised or contracted by a local agency, or a private waste hauler permitted by a local agency;
- (c) Self-haul cannabis waste to one or more of the following:
  - (1) A manned, fully permitted solid waste landfill or transformation facility;
  - (2) A manned, fully permitted composting facility or manned composting operation;
  - (3) A manned, fully permitted in-vessel digestion facility or manned in-vessel digestion operation;
  - (4) A manned, fully permitted transfer/processing facility or manned transfer/processing operation; or
  - (5) A manned, fully permitted chip and grind operation or facility.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013 and ~~26060~~ 26066, Business and Professions Code; and ~~Sections 40141 and 42649.8, Public Resources Code.~~

### § 8109. Applicant Track-and-Trace Training Requirement.

- (a) Each applicant shall register for track-and-trace system training provided by the department within ten (10) business days of receiving notice from the department that their application for licensure has been received and is complete.
- (b) Documentation of training completion shall be provided to the department within ten (10) business days of completion. Applicants approved for an annual license shall not have access to the track-and-trace system until the licensee's designated account manager has completed, and provided proof of completion, of the track-and-trace training prescribed by the department.

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Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013 and 26067, Business and Professions Code.

### § 8110. Proof of Local License, Permit, or Other Authorization.

When the applicant provides a license, permit, or other authorization from the local jurisdiction where the licensed premises will be or is located, the department will notify the contact person identified pursuant to section 26055 of the Business and Professions Code. If the local jurisdiction does not respond to the department's notification within ten (10) calendar days, the department may issue a license to the applicant.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections ~~26050.1~~ 26013 and 26055, Business and Professions Code.

### § 8111. Priority Application Review.

- (a) Priority review of annual license applications shall be given to applicants that can demonstrate the ~~commercial cannabis business~~ applicant entity was in compliance with the Compassionate Use Act of 1996 before September 1, 2016.
- (b) Eligibility for priority application review shall be demonstrated by any of the following, dated prior to September 1, 2016:
- (1) Local license, permit, or other authorization;
  - (2) Collective or ~~Cooperative Membership Agreement~~ cooperative membership agreement;
  - (3) Tax or business forms submitted to the California Department of Tax and Fee Administration or Franchise Tax Board;
  - (4) Incorporation documents filed with the Secretary of State;
  - (5) Any other verifiable business record adequate to demonstrate the operation of the business prior to September 1, 2016; or
  - (6) Any applicant identified by the local jurisdiction pursuant to section 26054.2(b) of the Business and Professions Code.
- (c) The department may request additional documentation to verify the applicant's date of commencement of operations.
- (d) This section shall cease to be operative on December 31, 2019, unless otherwise provided by law.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013 and 26054.2, Business and Professions Code.

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### § 8112. Annual License Application Review for Completeness.

The department shall notify the applicant in writing that the application is either:

- (a) Complete and accepted for further review; or
- (b) Incomplete and the reasons for the incompleteness.
  - (1) The department shall receive the missing information from the applicant no later than ninety (90) calendar days from the date of the notification from the department. Failure to provide the designated missing information will result in disqualification of the application from further consideration.
  - (2) If disqualified, the applicant may reapply and pay a new application fee.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26012 and 26013, Business and Professions Code.

### § 8113. Substantially Related Offenses Review.

- (a) The following convictions shall be considered substantially related to the qualifications, functions, or duties of the business for which the application is made and may be a basis for denying the license:
  - (1) A violent felony conviction, as specified in subsection (c) of section 667.5 of the Penal Code;
  - (2) A serious felony conviction, as specified in subsection (c) of section 1192.7 of the Penal Code;
  - (3) A felony conviction involving fraud, deceit, or embezzlement;
  - (4) Any felony conviction involving the hiring, employment, or use of children in transporting, carrying, selling, giving away, preparing for sale, or peddling any controlled substance to a minor, or offering, furnishing, or selling any controlled substance to a minor; and
  - (5) A felony conviction for drug trafficking with enhancements pursuant to sections 11370.4 or 11379.8 of the Health and Safety Code.
- (b) Except as provided in subsections (a)(4) and (5) and notwithstanding chapter 2 (commencing with section 480) of division 1.5 of the Business and Professions Code, a prior conviction, where the sentence, including any term or probation, incarceration, or supervised release, is completed, for possession of, possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance is not considered substantially related, and shall not be the sole ground of denial for a license. Conviction for any controlled substance felony subsequent to licensure shall be grounds for revocation of a license or denial of the renewal of the license.
- (c) To determine whether an applicant who has been convicted of a criminal offense that is substantially related to the qualifications, functions, or duties of the business for which the application is made should be issued a license, the department shall conduct a review of the nature of the crime, conviction, circumstances, and evidence of rehabilitation. Evidence of rehabilitation includes:

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- (1) The nature and severity of the criminal offense;
  - (2) Whether the person has a felony conviction based on possession or use of cannabis or cannabis products that would not be a felony if the person was convicted of the offense on the date of the person's application;
  - (3) The applicant's criminal record as a whole;
  - (4) Evidence of any conviction of a criminal offense committed subsequent to the criminal offense under consideration that could be considered grounds for denial, suspension, or revocation of a commercial cannabis activity license;
  - (5) The time that has elapsed since commission of the act or offense;
  - (6) The extent to which the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant;
  - (7) If applicable, evidence of dismissal under sections 1203.4, 1203.4a, and 1203.41 of the Penal Code or another state's similar law;
  - (8) If applicable, a certificate of rehabilitation obtained under section 4852.01 of the Penal Code or another state's similar law; and
  - (9) Other evidence of rehabilitation submitted by the applicant.
- (ed) If an applicant has been denied a license based on a substantially related conviction, the applicant may request a hearing pursuant to section 26058 of the Business and Professions Code to determine if the applicant should be issued a license.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013, 26057, and 26058, Business and Professions Code.

### § 8114. Withdrawal of Application.

An applicant may withdraw an application at any time prior to the department's issuance of a license or denial of a license.

- (a) Requests to withdraw an application shall be submitted to the department in writing, dated, and signed by the designated responsible party.
- (b) The department will not refund application fees for a withdrawn application.
- (c) An applicant may reapply and pay a new application fee at any time following the withdrawal of an application.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Section 26013 ~~26012~~, Business and Professions Code.

### § 8115. Notification and Grounds for Denial of License; Petition for Reconsideration.

- (a) The department shall notify the applicant in writing if the application is denied with the reasons for denial.

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- (b) In addition to the reasons for denial in section 26057 of the Business and Professions Code, a license may be denied for the following reasons:
- (1) The applicant's premises does not fully comply with standards pursuant to this chapter;
  - (2) The applicant denied the department access to the premises to verify compliance with this chapter;
  - (3) The applicant made a material misrepresentation on the application;
  - (4) The licensee had a license, permit, or other authorization to engage in commercial cannabis activity denied, suspended, or revoked by a state licensing authority or local agency; or
  - (5) The applicant or licensee has outstanding fees owed to the department.
- (c) Within thirty (30) days upon service of the denial of an application, the applicant may file a written petition. Upon receipt of a timely filed petition, the department shall set a date for a hearing to be conducted pursuant to chapter 5 (commencing with section 11500) of part 1 of division 3 of title 2 of the Government Code.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26012, 26013, and 26057, and 26058, Business and Professions Code.

### Article 3: Cultivation License Fees and Requirements

#### § 8200. Annual License Fees.

An annual license fee shall be paid to the department prior to issuance of a license or renewal license. The fee schedule is as follows:

(a) Specialty Cottage Outdoor	\$1,205
(b) Specialty Cottage Indoor	\$1,830
(c) Specialty Cottage Mixed-Light Tier 1	\$3,035
(d) Specialty Cottage Mixed-Light Tier 2	\$5,200
(e) Specialty Outdoor	\$2,410
(f) Specialty Indoor	\$19,540
(g) Specialty Mixed-Light Tier 1	\$5,900
(h) Specialty Mixed-Light Tier 2	\$10,120
(i) Small Outdoor	\$4,820
(j) Small Indoor	\$35,410
(k) Small Mixed-Light Tier 1	\$11,800
(l) Small Mixed-Light Tier 2	\$20,235
(m) Medium Outdoor	\$13,990
(n) Medium Indoor	\$77,905



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(o) Medium Mixed-Light Tier 1	\$25,970
(p) Medium Mixed-Light Tier 2	\$44,517
(q) Nursery	\$4,685
(r) Processor	\$9,370

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26012, 26013, 26050, 26051, and 26180, Business and Professions Code.

### § 8201. Cultivation License Types.

License types include:

#### (a) Specialty Cottage:

- (1) "Specialty Cottage Outdoor" is an outdoor cultivation site with up to 25 mature plants.
- (2) "Specialty Cottage Indoor" is an indoor cultivation site with 500 square feet or less of total canopy.
- (3) "Specialty Cottage Mixed-Light Tier 1 and 2" is a mixed-light cultivation site with 2,500 square feet or less of total canopy.

#### (b) Specialty:

- (1) "Specialty Outdoor" is an outdoor cultivation site with less than or equal to 5,000 square feet of total canopy, or up to 50 mature plants on noncontiguous plots.
- (2) "Specialty Indoor" is an indoor cultivation site between 501 and 5,000 square feet of total canopy.
- (3) "Specialty Mixed-Light Tier 1 and 2" is a mixed-light cultivation site between 2,501 and 5,000 square feet of total canopy.

#### (c) Small:

- (1) "Small Outdoor" is an outdoor cultivation site between 5,001 and 10,000 square feet of total canopy.
- (2) "Small Indoor" is an indoor cultivation site between 5,001 and 10,000 square feet of total canopy.
- (3) "Small Mixed-Light Tier 1 and 2" is a mixed-light cultivation site between 5,001 and 10,000 square feet of total canopy.

#### (d) Medium:

- (1) "Medium Outdoor" is an outdoor cultivation site between 10,001 square feet and one acre of total canopy.
- (2) "Medium Indoor" is an indoor cultivation site between 10,001 and 22,000 square feet of total canopy.
- (3) "Medium Mixed-Light Tier 1 and 2" is a mixed-light cultivation site between 10,001 and 22,000 square feet of total canopy.

(e) "Nursery" is a cultivation site that conducts the cultivation of cannabis solely as a nursery.

(f) "Processor" is a cultivation site that conducts only trimming, drying, curing, grading, packaging, or labeling of cannabis

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and nonmanufactured cannabis products.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26012, 26013, ~~and~~ 26050, and 26061, Business and Professions Code.

### § 8202. General License Requirements.

- (a) Cultivation licenses shall be valid for twelve (12) months from the date of issuance.
- (b) Every business entity shall obtain a separate license for each premises where it engages in commercial cannabis cultivation.
- (c) Cultivation licenses are not transferrable or assignable to any other person, entity, or property.
- (d) Licensees are prohibited from transferring any commercially cultivated cannabis or nonmanufactured cannabis products from their licensed premises. All transfer of cannabis and nonmanufactured cannabis product from a licensed cultivation site must be conducted by a distributor licensed by the bureau.
- (e) The license shall be prominently displayed on the licensed premises where it can be viewed by state or local agencies.
- ~~(f) Except as provided in section 8209, a licensee may hold both an A and an M license on the same premises, provided the inventory for each license type is kept separate and distinct.~~
- ~~(g)~~ (f) A licensee shall not sublet any portion of the licensed premises.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26010, 26012, 26013, 26050, and 26053, Business and Professions Code.

### § 8203. Renewal of License.

- (a) An application for renewal of a cultivation license shall be submitted to the department at least thirty (30) calendar days prior to the expiration date of the current license. No renewal application shall be accepted by the department more than sixty (60) calendar days prior to the expiration date of the current license.
- (b) If a complete renewal application is submitted in compliance with subsection (a) above, the licensee may continue to operate until the department approves or denies the renewal application.
- (c) If the department receives the renewal application less than thirty (30) calendar days prior to the expiration, or within thirty (30) calendar days after the expiration, of the current license, a licensee shall submit a late fee of fifty (50) percent of the application fee to be paid in addition to the required annual renewal fee.
- ~~(d) A licensed cultivator~~ (d) licensee that does not submit a complete license renewal application to the department within thirty (30) calendar days after the expiration of the current license shall forfeit their eligibility to apply for a license renewal and, instead, shall be required to submit a new license application.

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- (e) The license renewal application shall be submitted to the department and contain the following:
- (1) The legal name of the licensed entity;
  - (2) The license number and expiration date;
  - (3) The licensee's mailing address and premises address;
  - (4) The annual license fee pursuant to section 8200 of this chapter;
  - (5) If applicable, documentation regarding any changes that have occurred from the information originally submitted to the department pursuant to section 8102 of this chapter; and
  - (6) An attestation that all information provided to the department is accurate and current.
- (f) Beginning January 1, 2022, an application for renewal of a license shall include the following records, for each power source indicated on the application for licensure, for the previous annual licensed period:
- (1) Total electricity supplied by local utility provider, name of local utility provider, and greenhouse gas emission intensity per kilowatt hour reported by the utility under section 398.4(c) of the Public Utilities Code for the most recent calendar year available at time of submission.
  - (2) Total electricity supplied by a zero net energy renewable source, as set forth in section 398.4(h)(5) of the Public Utilities Code, that is not part of a net metering or other utility benefit.
  - (3) Total electricity supplied from other unspecified sources, as defined in 398.2(e) of the Public Utilities Code, and other on-site sources of generation not reported to the local utility provider (e.g., generators, fuel cells) and the greenhouse gas emission intensity from these sources.
  - (4) Average weighted greenhouse gas emission intensity considering all electricity use in subsections (1), (2), and (3).

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013, 26050, 26051.5, and 26055, Business and Professions Code.

### § 8204. Notification of License Information Change.

- (a) Licensees shall notify the department in writing within ten (10) calendar days of any change to any item listed in the application, and any of the following events:
- (1) Disciplinary proceeding initiated by any state or local government agency;
  - (2) Bankruptcy filing by any owner listed on the application for licensure;
  - (3) Temporary closure longer than thirty (30) calendar days. Include in the notification the reason for temporary closure and expected duration of closure;
  - (4) Modifications to the cultivation plan pursuant to section 8106 of this chapter that do not require preapproval pursuant to section 8205 of this chapter; and
  - (5) Any change in ownership that does not affect the business entity type. New owners shall submit all information

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pursuant to section 8102(h) of this chapter.

- (b) Any change to the business entity type requires a new application and application fee.
- (c) Licensee shall notify the department in writing of the following within forty-eight (48) hours of:
  - (1) Receiving a criminal conviction or civil judgment rendered against the licensee or any owner; and
  - (2) Receiving notification of the revocation of a local license, permit or other authorization.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26012, and 26013, Business and Professions Code.

### § 8205. Physical Modification of Premises.

A licensee shall not make a physical modification of the licensed premises that materially or substantially alters the licensed premises or the use of the licensed premises from the premises diagram originally filed with the license application without the prior written approval of the department.

- (a) The following premises modifications require approval in writing from the department prior to modification:
  - (1) Modification to any area described in the licensee's cultivation plan including, but not limited to, the removal, creation, or relocation of canopy, processing, packaging, composting, harvest storage, and chemical storage areas;
  - (2) Change in water or power source(s); and
  - (3) Modifications or upgrades to electrical systems at a licensed premises shall be performed by a licensed electrician. A copy of the electrician's license shall be submitted with any premises modification requests for electrical systems.
- (b) A licensee shall request approval of a physical change, alteration, or modification in writing to the department, and the request shall include a new premises diagram and/or cultivation plan pursuant to section 8106 of this chapter.
- (c) A licensee shall provide additional documentation requested by the department to evaluate the licensee's request.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26012, 26013, and 26055, Business and Professions Code.

### § 8206. Death or Incapacity of a Licensee.

- (a) In the event of the death, incapacity, receivership, assignment for the benefit of creditors of a licensee, or other event rendering a licensee incapable of performing the duties associated with the license, the licensee's successor in interest (e.g., appointed guardian, executor, administrator, receiver, trustee, or assignee) shall notify the department within ten (10) business days.
- (b) To continue operations or surrender the existing license, the successor in interest shall submit to the department the following:

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- (1) The name of the successor in interest;
  - (2) The name of the licensee for which the successor in interest is succeeding and the license number;
  - (3) The phone number, mailing address, and email address of the successor in interest; and
  - (4) Documentation demonstrating that the licensee is incapable of performing the duties associated with the license such as a death certificate or a court order finding the licensee lacks capacity, and documentation demonstrating that the individual making the request is the licensee's successor in interest, such as a court order appointing guardianship, or a will or trust agreement.
- (c) The department may give the successor in interest written approval to continue operations on the licensed business premises for a period of time specified by the department if:
- (1) The successor in interest or another person has applied for a license from the department for the license location and that application is under review; or
  - (2) The successor in interest needs additional time to destroy or sell cannabis or nonmanufactured cannabis products; or
  - (3) At the discretion of the department.
- (d) The licensee's successor in interest is held subject to all terms and conditions under which a state cannabis license is held pursuant to the Act and the regulations of this chapter.
- (e) The approval creates no vested right to the issuance of a state cannabis license.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26012, and 26013, Business and Professions Code.

### § 8207. Disaster Relief.

- (a) If a licensee is unable to comply with any licensing requirement(s) due to a disaster, the licensee may notify the department of this inability to comply and request relief from the specific licensing requirement(s).
- (b) The department may exercise its discretion to provide temporary relief from specific licensing requirements for licensees whose operations have been impacted by a disaster.
- (c) Temporary relief from specific licensing requirements shall be issued for a reasonable amount of time in order to allow the licensee to recover from the disaster.
- (d) The department may require that certain conditions be followed in order for a licensee to receive temporary relief from specific licensing requirements.
- (e) A licensee shall not be subject to an enforcement action for a violation of a licensing requirement in which the licensee has received temporary relief.
- (f) For the purposes of this section, "disaster" means fire, flood, storm, tidal wave, earthquake, or similar public calamity,

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when the Governor through an executive order has declared a state of emergency, whether or not it resulted from natural causes.

- (g) A licensed premises that has been vacated by a licensee due to a disaster shall not be deemed to have been surrendered, abandoned, or quit pursuant to section 8208 of this chapter.
- (h) Notwithstanding subsection (a) of this section, if a licensee needs to move cannabis and nonmanufactured cannabis products stored on the premises to another location immediately to prevent loss, theft, or degradation of the cannabis and nonmanufactured cannabis products from the disaster, the licensee may move the cannabis without obtaining prior approval from the department if the following conditions are met:
- (1) The cannabis and nonmanufactured cannabis products are moved to a secure location where access to the cannabis can be restricted to the licensee, its employees, and contractors;
  - (2) The licensee notifies the department in writing that the cannabis and nonmanufactured cannabis products have been moved and that the licensee is requesting relief from complying with specific licensing requirements pursuant to subsection (a) of this section within twenty-four (24) hours of moving the cannabis;
  - (3) The licensee provides the department access to the location where the cannabis and nonmanufactured cannabis products have been moved to for inspection; and
  - (4) The licensee submits in writing to the department within ten (10) calendar days of moving the cannabis and nonmanufactured cannabis products a request for temporary relief that clearly indicates what the statutory and regulatory sections relief is requested from, the time period for which the relief is requested, and the reasons relief is needed for the specified amount of time.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26012, and 26013, Business and Professions Code.

§ 8208. Surrender of License.

The department shall immediately cancel the license if:

- (a) A The licensee who surrenders, abandons, or quits the licensed premises, or who closes the licensed premises for a period exceeding thirty (30) consecutive calendar days without notifying the department pursuant to section 8204 of this chapter shall surrender the license to the department, and the department shall immediately cancel the license.
- (b) The licensee voluntarily requests to surrender its license. Upon the voluntary request by any licensee to surrender a license, the department shall immediately cancel the license.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26012, and 26013, Business and Professions Code.

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### § 8209. Medium Cultivation License Limits.

A person shall be limited to one (1) Medium Outdoor, or one (1) Medium Indoor, or one (1) Medium Mixed-Light A-License or M-License. This section shall remain in effect until January 1, 2023.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26012, 26013, 26050, and 26061, Business and Professions Code.

### § 8210. Sample Collection by the Bureau.

When a licensee transfers possession, but not title, of cannabis to a licensed distributor, the licensee shall allow the bureau to collect samples for the bureau's own laboratory analysis.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections ~~26012~~ 26013 and 26110, Business and Professions Code.

### § 8211. Prohibition of Product Returns.

Licensees are prohibited from accepting returns of cannabis plants or nonmanufactured cannabis products after transferring possession of cannabis plants or nonmanufactured cannabis products to another licensee after testing is performed pursuant to section 26110 of the Business and Professions Code.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections ~~26012~~ 26013, 26060, and 26110, Business and Professions Code.

### § 8212. Packaging and Labeling of Cannabis and Nonmanufactured Cannabis Products.

- (a) All cannabis and nonmanufactured cannabis products packaged and/or labeled by a licensed cultivator shall meet all of the following:
- (1) All applicable requirements including implementing regulations pursuant to sections 26070, 26120, and 26121 of the Business and Professions Code;
  - (2) Any other requirements for cannabis and nonmanufactured cannabis products specified by the bureau and the California Department of Public Health;
  - (3) Packaging and labeling requirements pursuant to chapter 6 (commencing with section 12601), division 5 of the Business and Professions Code.
- (b) A label may specify the county of origin only if one hundred (100) percent of the cannabis or nonmanufactured cannabis

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product contained in the package was produced within the designated county, as defined by finite political boundaries.

Authority: Sections 26012, 26013, ~~and 26106~~, Business and Professions Code. Reference: Sections 26013 and 26063, ~~26070, 26120, and 26121~~, Business and Professions Code.

§ 8213. Requirements for Weighing Devices and Weighmasters.

(a) Weighing devices used by a licensee for commercial purposes or for the purpose of determining quantity for entry in the track-and-trace system shall be approved, tested and sealed pursuant to chapter 5 (commencing with section 12500) of division 5 of the Business and Professions Code, and registered with the county sealer consistent with chapter 2 (commencing with section 12240) of division 5 of the Business and Professions Code. Approved and registered devices shall be used whenever:

- (1) Cannabis and nonmanufactured cannabis products are bought or sold by weight or count;
- (2) Cannabis and nonmanufactured cannabis products are packaged for sale by weight or count;
- (3) Cannabis and nonmanufactured cannabis products are weighed or counted for entry into the track-and-trace system; and
- (4) The weighing device is used for commercial purposes as defined in section 12500 of the Business and Professions Code.

(b) In any county in which a sealer is unable or not required to register, test, and seal weighing devices used by a licensee for commercial purposes, the department may perform the duties of the county sealer in the same manner, to the same extent, and with the same authority as if they had been the duly appointed sealer in such county. In those instances, the department shall charge a licensee for its services using the schedule of fees established in Business and Professions Code section 12212(d).

~~(b)~~ (c) For the purposes of this chapter a licensee must use wet weight or net weight. Wet weight and net weight shall be measured, recorded and reported in U.S. customary units (e.g., ounce or pound); or International System of Units (e.g., kilograms, grams, or milligrams).

~~(c)~~ (d) For the purposes of this chapter, count means the numerical count of the individual cannabis plants, seeds or nonmanufactured cannabis product units.

~~(d)~~ (e) A licensee shall be licensed as a weighmaster for ~~bulk~~ commercial shipments of cannabis and nonmanufactured cannabis products. A certificate issued by a licensed weighmaster shall be consistent with the requirements in chapter 7 (commencing with section 12700) of division 5 of the Business and Professions Code.

Authority: Sections 12027, 26012 and 26013, Business and Professions Code. Reference: ~~Chapter 7 (commencing with Section 12700) of Division 5~~, Sections 12210, 12212, 26013 and 26060, Business and Professions Code.



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### § 8214. ~~Transition Period~~ Commercial Cannabis Activity Between Licensees.

~~Notwithstanding any other provision, until July 1, 2018,~~ CalCannabis Cultivation licensees may conduct commercial cannabis activities with any other licensee, regardless of the A or M designation of the license.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26001, 26013, and 26053, Business and Professions Code.

### § 8215. Personnel Prohibited from Holding Licenses.

- (a) A license authorized by the Act and issued by the department may not be held by, or issued to, any person holding office in, or employed by, any agency of the State of California or any of its political subdivisions when the duties of such person have to do with the enforcement of the Act or any other penal provisions of law of this State prohibiting or regulating the sale, use, possession, transportation, distribution, testing, manufacturing, or cultivation of cannabis.
- (b) This section applies to, but is not limited to, any persons employed in the State of California Department of Justice as a peace officer, in any district attorney's office, in any city attorney's office, in any sheriff's office, or in any local police department.
- (c) All persons listed in subsections (a) or and (b) may not have any ownership interest, directly or indirectly, in any business to be operated or conducted under a cannabis license.
- (d) This section does not apply to any person who holds a license in the capacity of executor, administrator, or guardian.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections ~~26010 and 26012,~~ and 26013, Business and Professions Code.

### § 8216. License Issuance in an Impacted Watershed.

If the State Water Resources Control Board or the Department of Fish and Wildlife finds, based on substantial evidence, that cannabis cultivation is causing significant adverse impacts on the environment in a watershed or other geographic area, the department shall not issue new licenses or increase the total number of plant identifiers within that watershed or area.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013 and 26069, ~~of~~ Business and Professions Code.

## Article 4. Cultivation Site Requirements

### § 8300. Cultivation Requirements for Specialty Cottage, Specialty, Small, and Medium Licenses.

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- (a) Cannabis plants maintained outside of the designated canopy area(s) for specialty cottage, specialty, small, and medium licenses are prohibited from flowering. Should plants outside of the canopy area(s) begin to flower, a UID shall be applied, the plant(s) shall be moved to the designated canopy area without delay, and reported in the track-and-trace system.
- (b) All plants or portions of a plant used for seed production shall be tagged with a UID pursuant to section 8403 of this chapter.
- (c) Licensees propagating immature plants for distribution or seed for distribution to another licensee shall obtain a nursery license.
- (d) Licensees shall process their harvested cannabis only in area(s) designated for processing in their cultivation plan provided they are compliant with packaging and labeling requirements pursuant to section 8212 of this chapter, or transfer their harvested cannabis to a licensed processor, manufacturer, or distributor via a licensed distributor.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013, 26060, ~~26070~~, and 26120, Business and Professions Code.

### § 8301. Seed Production Requirements for Nursery Licenses Nurseries.

Nursery Licenses Nurseries producing seed for distribution shall tag all mature plants pursuant to section 8403 of this chapter. All products, except seed, derived from these plants are prohibited from entering the commercial distribution chain.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013, 26060, and 26067, Business and Professions Code.

### § 8302. Research and Development Requirements for Nursery Licenses Nurseries.

Nursery Licenses Nurseries may maintain a research and development area, as identified in their cultivation plan, for the cultivation of mature plants. All mature plants shall be tagged with a UID pursuant to section 8403 of this chapter. All products derived from these plants are prohibited from entering the commercial distribution chain.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013, 26060, and 26067, Business and Professions Code.

### § 8303. Cultivation Requirements for Processor Licenses.

Processor licensees shall comply with all of the following requirements:

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- (a) All aggregation of product shall adhere to track-and-trace requirements pursuant to sections 8405 and 8406 of this chapter;
- (b) Licensees may produce nonmanufactured cannabis products without a manufacturing license, provided compliance with packaging and labeling requirements pursuant to section 8212 of this chapter; and
- (c) Cultivation of cannabis plants is prohibited at a licensed processor premises.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013, 26060, 26067, 26069, and 26120, Business and Professions Code.

### § 8304. General Environmental Protection Measures.

All licensees shall comply with all of the following environmental protection measures:

- (a) Compliance with section 13149 of the Water Code as implemented by the State Water Resources Control Board, Regional Water Quality Control Boards, or California Department of Fish and Wildlife;
- (b) Compliance with any conditions requested by the California Department of Fish and Wildlife or the State Water Resources Control Board under section 26060.1(b)(1) of the Business and Professions Code;
- (c) All outdoor lighting used for security purposes shall be shielded and downward facing;
- (d) Immediately halt cultivation activities and implement section 7050.5 of the Health and Safety Code if human remains are discovered;
- (e) Requirements for generators pursuant to section 8306 of this chapter;
- (f) Compliance with pesticide laws and regulations as enforced by the Department of Pesticide Regulation pursuant to section 8307 of this chapter;
- (g) Mixed-light license types of all tiers and sizes shall ensure that lights used for cultivation are shielded from sunset to sunrise to avoid nighttime glare.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013, 26060, 26066, and 26201, Business and Professions Code.

### § 8305. Renewable Energy Requirements.

Beginning January 1, 2023, all indoor, tier 2 mixed-light license types of all sizes, and nurseries using indoor or tier 2 mixed-light techniques, shall ensure that electrical power used for commercial cannabis activity meets the average electricity greenhouse gas emissions intensity required of their local utility provider pursuant to the California Renewables Portfolio Standard Program, division 1, part 1, chapter 2.3, article 16 (commencing with section 399.11) of the Public Utilities Code.

As evidence of meeting the standard, licensees shall comply with the following:

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- (a) If a licensee's average weighted greenhouse gas emission intensity as provided in section 8203(f)(4) is greater than the local utility provider's greenhouse gas emission intensity, the licensee shall provide evidence of carbon offsets or allowances from any of the following sources to cover the excess in carbon emissions from the previous annual licensed period:
- (1) Allowances purchased from California Cap and Trade Auctions. Any currently acceptable vintages are allowed pursuant to section 95910 of the Public Utilities Code;
  - (2) Offsets purchased from Offset Project Registry System used for the California Cap and Trade Program, pursuant to section 95981 of the Public Utilities Code;
  - (3) Offsets purchased from California Air Pollution Control Officers Association California-based Greenhouse Gas Credit Exchange.
- (b) New licensees, without a record of weighted greenhouse gas emissions intensity from the previous calendar year, shall report the average weighted greenhouse gas emissions intensity, as provided in section 8203(f)(4), used during their licensed period at the time of license renewal. If a licensee's average weighted greenhouse gas emissions intensity is greater than the local utility provider's greenhouse gas emissions intensity for the most recent calendar year, the licensee shall provide evidence of carbon offsets or allowances to cover the excess in carbon emissions from any of the sources provided in subsection (a).

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013, 26060, 26066, and 26201, Business and Professions Code.

### § 8306. Generator Requirements.

- (a) For the purposes of this section, generator is defined as a stationary or portable compression ignition engine pursuant to title 17, division 3, chapter 1, subchapter 7.5, section 93115.4 of the California Code of Regulations.
- (b) Licensees using generators rated at fifty (50) horsepower and greater shall demonstrate compliance with Airborne Toxic Control Measures pursuant to title 17, division 3, chapter 1, subchapter 7.5, sections 93115 through 93115.5 of the California Code of Regulations. Compliance shall be demonstrated by providing a copy of one of the following to the department upon request:
- (1) A Portable Equipment Registration Certificate provided by the California Air Resources Board; or
  - (2) A Permit to Operate obtained from the Local Air District with jurisdiction over the licensed premises.
- (c) Licensees using generators rated below fifty (50) horsepower shall comply with the following by 2023:
- (1) Designate the generator as emergency or low-use as defined in title 17, division 3, chapter 1, subchapter 7.5, sections 93116.2(a)(12) and 93116.2(a)(22) of the California Code of Regulations;
  - (2) Either (A) or (B);

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- (A) Meet Tier 3 with level 3 diesel particulate filter requirements pursuant to title 13, division 3, chapter 9, article 4, section 2423 of the California Code of Regulations;
- (B) Meet Tier 4 engine requirements pursuant to title 13, division 3, chapter 14, section 2702 of the California Code of Regulations.
- (d) All generators shall be equipped with nonresettable hour-meters.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013, 26060, 26066, and 26201, Business and Professions Code.

### § 8307. Pesticide Use Requirements.

- (a) Licensees shall comply with all pesticide laws and regulations enforced by the Department of Pesticide Regulation.
- (b) For all pesticides that ~~comply with subsection (a) above and~~ are exempt from registration requirements, licensees shall comply with all pesticide laws and regulations enforced by the Department of Pesticide Regulation and with the following pesticide application and storage protocols:
  - (1) Comply with all pesticide label directions;
  - (2) Store chemicals in a secure building or shed to prevent access by wildlife;
  - (3) Contain any chemical leaks and immediately clean up any spills;
  - (4) Apply the minimum amount of product necessary to control the target pest;
  - (5) Prevent offsite drift;
  - (6) Do not apply pesticides when pollinators are present;
  - (7) Do not allow drift to flowering plants attractive to pollinators;
  - (8) Do not spray directly to surface water or allow pesticide product to drift to surface water. Spray only when wind is blowing away from surface water bodies;
  - (9) Do not apply pesticides when they may reach surface water or groundwater; and
  - (10) Only use properly labeled pesticides. If no label is available consult the Department of Pesticide Regulation.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013, 26060, 26066, and 26201, Business and Professions Code.

### § 8308. Cannabis Waste Management.

- (a) For the purposes of this section, "cannabis waste" is organic waste, as defined in section 42649.8(c) of the Public Resources Code.
- (b) A licensee shall manage all hazardous waste, as defined in section 40141 of the Public Resources Code, in compliance

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with all applicable hazardous waste statutes and regulations.

(c) A licensee shall manage all cannabis waste in compliance with division 30, part 3, chapters 12.8, 12.9 and 13.1 of the Public Resources Code. In addition, licensees are obligated to obtain all required permits, licenses, or other clearances and comply with all orders, laws, regulations, or other requirements of other regulatory agencies, including, but not limited to, local health agencies, regional water quality control boards, air quality management districts, or air pollution control districts, local land use authorities, and fire authorities.

(d) A licensee shall dispose of cannabis waste in a secured waste receptacle or in a secured area on the licensed premises designated on the licensee's premises diagram and as identified in the licensee's cultivation plan. For the purposes of this section, "secure waste receptacle" or "secured area" means that physical access to the receptacle or area is restricted only to the licensee, employees of the licensee, or the local agency, a waste hauler franchised or contracted by a local agency, or a private waste hauler permitted by the local agency. Public access to the designated receptacle or area shall be strictly prohibited.

(e) A licensee shall comply with the method(s) for managing cannabis waste identified on their cannabis waste management plan in accordance with section 8108.

(f) If composting cannabis waste on the licensed premises, a licensee shall do so in compliance with title 14 of the California Code of Regulations, division 7, chapter 3.1 (commencing with section 17850).

(g) If a local agency, a waste hauler franchised or contracted by a local agency, or a private waste hauler permitted by a local agency is being used to collect and process cannabis waste, a licensee shall do all the following:

- (1) ~~Provide the department with the following information for the local agency,~~ Obtain and retain the following information from the local agency, a waste hauler franchised or contracted by the local agency, or private waste hauler permitted by the local agency who will collect and process the licensee's cannabis waste:
  - (A) Name of local agency providing waste hauling services, if applicable;
  - (B) Company name of the waste hauler franchised or contracted by a local agency or private waste hauler permitted by the local agency, if applicable;
  - (C) Local agency or company business address; and
  - (D) Name of the primary contact person at the local agency or company and contact person's phone number;
- (2) Obtain and retain documentation from the local agency, the waste hauler franchised or contracted by a local agency, or private waste hauler permitted by the local agency that indicates the date and time of each collection of cannabis waste at the licensed premises;
- (3) Obtain and retain a copy of the certified weight ticket, or other documentation prepared by the local agency, the waste hauler franchised or contracted by a local agency, or private waste hauler permitted by the local agency evidencing receipt of the cannabis waste at one or more of the solid waste facilities in section 8108(c); and
- (4) Cannabis waste may be collected from a licensee in conjunction with a regular organic waste collection route used

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by the local agency, the waste hauler franchised or contracted by a local agency, or private waste hauler permitted by the local agency.

- (h) If self-hauling cannabis waste to one or more of the solid waste facilities in section 8108(c) above, a licensee shall obtain and retain, for each delivery of cannabis waste by the licensee, a copy of a certified weight ticket, or receipt documenting delivery, prepared by a representative(s) of the solid waste facility receiving the self-hauled cannabis waste. Transportation of self-hauled cannabis waste shall only be performed by the licensee or employees of the licensee.
- (i) In addition to all other tracking requirements set forth in sections 8405 and 8406 of this chapter, a licensee shall use the track-and-trace system and documentation required pursuant to this section to ensure the cannabis waste is identified, weighed, and tracked while on the licensed premises and when disposed of in accordance with subsections (f), (g), and (h) above.
- (j) A licensee shall maintain accurate and comprehensive records regarding cannabis waste that account for, reconcile, and evidence all activity related to the generation or disposition of cannabis waste. All records required by this section are records subject to inspection by the department and shall be kept pursuant to section 8400 of this chapter.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013 and 26060, Business and Professions Code; and Sections 40141 and 42649.8, Public Resources Code.

### Article 5. Records and Reporting

#### § 8400. Record Retention.

For the purposes of this chapter, the term record includes all records, applications, reports, or other supporting documents required by the department.

- (a) Each licensee shall keep and maintain the records listed in subsection (d) for at least seven (7) years from the date the document was created.
- (b) Records shall be kept in a manner that allows the records to be provided at the licensed premises or delivered to the department, upon request.
- (c) All records are subject to review by the department during standard business hours or at any other reasonable time as mutually agreed to by the department and the licensee. For the purposes of this section, standard business hours are deemed to be 8:00am - 5:00pm (Pacific Standard Time). Prior notice by the department to review records is not required.
- (d) Each licensee shall maintain all of the following records on the licensed premises, including but not limited to:
  - (1) Department issued cultivation license(s);
  - (2) Cultivation plan;

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- (3) All records evidencing compliance with the environmental protection measures pursuant to sections 8304, 8305, 8306, and 8307 of this chapter;
  - (4) All supporting documentation for data or information entered ~~input~~ into the track-and-trace system;
  - (5) All UIDs assigned to product in inventory and all unassigned UIDs. UIDs associated with product that has been retired from the track-and-trace system must be retained for six (6) months after the date the tags were retired;
  - (6) Financial records related to the licensed commercial cannabis activity, including but not limited to, bank statements, tax records, sales invoices, and sales receipts;
  - (7) Personnel records, including each employee's full name, social security number, or individual tax payer identification number, date of beginning employment, and, if applicable, date of termination of employment ~~if applicable~~;
  - (8) Records related to employee training for the ~~track-and-trace~~ track-and-trace system or other requirements of this chapter. Records shall include, but are not limited to, the date(s) training occurred, description of the training provided, and the names of the employees that received the training;
  - (9) Contracts with other state licensed cannabis businesses;
  - (10) Permits, licenses, and other local authorizations to conduct the licensee's commercial cannabis activity;
  - (11) Records associated with composting or disposal of cannabis waste.
  - (12) Documentation associated with loss of access to the track-and-trace system prepared pursuant to section 8402(d) of this chapter.
- (e) All required records shall be prepared and retained in accordance with the following conditions:
- (1) Records shall be legible; and
  - (2) Records shall be stored in a secured area where the records are protected from debris, moisture, contamination, hazardous waste, fire, and theft.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013, 26055, 26060, 26060.1, 26067, 26069, 26160, and 26161, Business and Professions Code.

### § 8401. Sales Invoice or Receipt Requirements.

The licensee shall prepare a sales invoice or receipt for every sale, transport, or transfer of cannabis or nonmanufactured cannabis product to another licensee. Sales invoices and receipts may be retained electronically but must be readily accessible for examination by the department, other state licensing authorities, any state or local law enforcement authority, and the California Department of Tax and Fee Administration. Each sales invoice or receipt shall include all the following:

- (a) Name, business address, and department or other licensing authority issued license number of the seller;



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- (b) Name, business address, and department or other licensing authority issued license number of the purchaser;
- (c) Date of sale or transfer (month, day, and year). The date of any sale or transfer of cannabis and nonmanufactured cannabis products shall be the date of transfer to the licensee receiving it;
- (d) Invoice or receipt number;
- (e) Weight or quantity of cannabis and nonmanufactured cannabis products sold;
  - (1) Weight. For the purposes of this section a licensee must use wet weight or net weight. Wet weight and net weight shall be measured, recorded, and reported in U.S. customary units (e.g., ounce or pound); or International System of Units (e.g., kilograms, grams, or milligrams).
  - (2) Weighing Devices. A licensee shall follow weighing device requirements pursuant to section 8213 of this chapter.
  - (3) Count. For the purposes of this section, "count" means the numerical count of the individual plants or units.
- (f) Cost to the purchaser, including any discount applied to the total price, shall be recorded on the invoice;
- (g) Description for each item, including strain or cultivar, and all of the applicable information below:
  - (1) Plant;
  - (2) Flower;
  - (3) Leaf;
  - (4) Shake;
  - (5) Kief; and
  - (6) Pre-rolls.
- (h) Signature of the seller, or designated representative of the seller, acknowledging accuracy of the cannabis and nonmanufactured cannabis products being shipped;
- (i) Signature of the purchaser, or designated representative of the purchaser, acknowledging receipt or rejection of the cannabis or nonmanufactured cannabis products.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013 and 26161, Business and Professions Code.

### § 8402. Track-and-Trace System.

Except as provided in section 8405 (e) of this chapter, each licensee shall report in the department's track-and-trace system the disposition of immature and mature plants, nonmanufactured cannabis products on the licensed premises, any transfers associated with commercial cannabis activity between licensees, and any cannabis waste pursuant to this chapter.

- (a) The licensee is responsible for the accuracy and completeness of all data and information entered into the track-and-trace system. Data entered into the track-and-trace system is assumed to be accurate and can be used to take enforcement action against the licensee if not corrected.

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- (b) Each licensee shall use the track-and-trace system for recording all applicable commercial cannabis activities. Each licensee shall:
- (1) Designate an owner or other natural person(s) ~~party(ies)~~ in the licensee's organization that can legally represent the licensee to be the licensee's track-and-trace account manager(s);
  - (2) Require the track-and-trace account manager to complete track-and-trace system training. If the designated account manager did not complete the track-and-trace system training prior to the licensee receiving their annual license, the account manager will be required to register for the track-and-trace system training provided by the department within five (5) business days of license issuance;
  - (3) Designate track-and-trace system users, as needed, and require the users to be trained by the licensee's track-and-trace account manager in the proper and lawful use of the track-and-trace system before the users are permitted to access the track-and-trace system;
  - (4) Require the track-and-trace account manager to maintain an accurate and complete list of all track-and-trace system account managers and users and update the list immediately when changes occur;
  - (5) Cancel any track-and-trace users from the licensee's track-and-trace system account if that individual is no longer authorized to represent the ~~a licensee representative~~; and
  - (6) Correct any data that is entered into the track-and-trace system in error within three (3) business days of discovery of the error.
- (c) The licensee is responsible for all actions any licensee representatives take while logged into the track-and-trace system or otherwise conducting commercial cannabis activities.
- (d) If a licensee loses access to the track-and-trace system for any reason, the licensee shall prepare and maintain comprehensive records detailing all required inventory tracking activities conducted during the loss of access.
- (1) Once access to the track-and-trace system is restored, all inventory tracking activities that occurred during the loss of access shall be entered into the track-and-trace system within three (3) business days.
  - (2) A licensee shall document the date and time when access to the track-and-trace system was lost, ~~and~~ when it was restored, and the cause for each loss of access.
  - (3) A licensee shall not transfer cannabis or nonmanufactured cannabis products to a distributor until such time as access to the system is restored and all information is recorded into the track-and-trace system.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013, 26067, 26069, ~~26070~~, and 26160 Business and Professions Code.

### § 8403. Track-and-Trace System Unique Identifiers (UID).

- (a) Within five (5) business days of the date the licensee's designated account manager(s) was credentialed by the

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department to use the track-and-trace system, the licensee shall request UIDs using the track-and-trace system as prescribed by the department.

- (1) The licensee shall only use UIDs provisioned and distributed by the department, or the department's designee.
  - (2) The licensee shall maintain a sufficient supply of UIDs in inventory to support tagging in accordance with this section.
  - (3) The licensee shall use the track-and-trace system to document receipt of provisioned and distributed UIDs within three (3) business days of physical receipt of the UIDs by the licensee.
  - (4) Except as provided in section 8407 of this chapter, all cannabis shall be entered into the track-and-trace system by the licensee starting with seed, cannabis which has been propagated onsite or purchased from a licensed nursery, or seedling purchased from a licensed nursery pursuant to this chapter.
- (b) The UID shall accompany the cannabis products through all phases of the growing cycle, as follows:
- (1) Licensees with immature plants shall assign a UID to each established lot respectively. The lot UID shall be placed in a position so it is visible and within clear view of an individual standing next to the immature lot to which the UID was assigned, and all UIDs shall be kept free from dirt and debris. For the purposes of this subsection, each lot of immature plants shall not have more than one hundred (100) immature plants at any one time. All immature plants in a lot shall be ~~labeled~~ labeled with the corresponding UID number assigned to the lot and shall be contiguous to one another in order to facilitate identification by the department.
  - (2) Immature plants transferred from a licensed nursery, via a distributor, to a licensed cultivator shall meet requirements of subsection (b)(1) above. Each immature plant intended for retail sale shall have a UID affixed, or be labeled with the corresponding UID number of the lot, and be recorded in the track-and-trace system prior to transfer from the licensed nursery.
  - (3) The licensee shall apply a UID to all individual plants at the time any plant is moved to the designated canopy area or when an individual plant begins flowering, as defined in section 8000(l). The licensee may tag individual immature plants prior to movement to the designated canopy area or prior to flowering.
  - (4) UIDs are required for each mature plant. UIDs shall be attached to the main stem, at the base of each plant. The UID shall be attached to the plant using a tamper evident strap or zip tie and placed in a position so it is visible and within clear view of an individual standing next to the mature plant to which the UID was assigned and UIDs shall be kept free from dirt and debris. Licensees are prohibited from removing the UID from the mature plant to which it was attached and assigned until the plant is harvested, destroyed, or disposed.
- (c) Each harvest batch shall be assigned a unique harvest batch name which will be associated with all UIDs for each individual plant, or portion thereof, contained in the harvest batch.
- (d) UIDs are required for all cannabis and nonmanufactured cannabis products and shall be associated with the corresponding harvest batch name from which the cannabis and nonmanufactured cannabis products were derived.

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- (e) Upon destruction or disposal of any cannabis or nonmanufactured cannabis products, the applicable UIDs shall be retired in the track-and-trace system by the licensee within three (3) business days of the destruction or disposal and be performed in accordance with the licensee's approved cannabis waste management plan.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013, 26067, 26069, ~~26070~~, and 26160 Business and Professions Code.

### § 8404. Track-and-Trace System User Requirements.

- (a) All track-and-trace account managers or users, as identified by the licensee pursuant to section 8402 of this chapter, shall enter all commercial cannabis activities in the track-and-trace system.
- (b) Each track-and-trace account manager and user shall have a unique log-on, consisting of a username and password, which shall not be used by or shared with any other person.
- (c) No track-and-trace account manager, user, or other licensee representative shall intentionally misrepresent or falsify information entered into the track-and-trace system.
- (d) The account manager shall monitor all notifications from the track-and-trace system and resolve all issues included in the notification in the timeframe specified in the notification. An account manager shall not dismiss a notification from the track-and-trace system until the issue(s) included in the notification has been resolved.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26012, 26013, 26067, and 26069, Business and Professions Code.

### § 8405. Track-and-Trace System Reporting Requirements.

- (a) Except as provided in subsection (e) below, the track-and-trace account manager or users shall report in the track-and-trace system any and all transfers of cannabis or nonmanufactured cannabis products to another licensed entity prior to the movement of the cannabis or nonmanufactured cannabis products off the licensed premises.
- (b) The track-and-trace account manager or users shall report in the track-and-trace system, any and all cannabis or nonmanufactured cannabis products physically received or rejected from another licensee within twenty-four (24) hours of receipt or rejection of the products.
- (c) The track-and-trace account manager or users shall report in the track-and-trace system any change in the disposition of cannabis plants, as applicable, on the licensed premises. All changes in disposition shall be made within three (3) business days of the change in disposition of the cannabis plants. Changes in disposition of cannabis plants include but are not limited to:
  - (1) Flowering;

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- (2) Destruction or disposal;
  - (3) Harvest;
  - (4) Processing;
  - (5) Storage; and
  - (6) Packaging.
- (d) The account manager or user shall be required to report information in the track-and-trace system for each transfer of cannabis or nonmanufactured cannabis products to, or cannabis or nonmanufactured cannabis products received from, other licensed premises. Required information to be entered includes, but is not limited to:
- (1) Name, business address, and department issued license number of the seller;
  - (2) Name, business address, and department issued license number of the purchaser;
  - (3) Name and department issued license number of the distributor;
  - (4) Date of sale, transfer, or receipt (month, day, and year) of cannabis or nonmanufactured cannabis products;
  - (5) Weight or count of individual units of cannabis or nonmanufactured cannabis products sold, transferred, or received;
    - (A) Weight. For the purposes of this section a licensee must use wet weight or net weight. Wet weight and net weight shall be measured, recorded, and reported in U.S. customary units (e.g., ounce or pound); or International System of Units (e.g., kilograms, grams, or milligrams).
    - (B) Weighing Devices. A licensee shall follow weighing device requirements pursuant to section 8213 of this chapter.
    - (C) Count. For the purposes of this section count means the numerical count of the individual plants or units.
  - (6) Estimated departure and arrival time;
  - (7) Actual departure time;
  - (8) Description for each item, including strain or cultivar, and all of the applicable information below:
    - (A) Plant;
    - (B) Flower;
    - (C) Leaf;
    - (D) Shake;
    - (E) Kief; and
    - (F) Pre-rolls.
  - (9) UID(s).
- (e) Temporary Licensees. A licensee operating under a temporary license, issued by the department pursuant to section 8100 of this chapter, is not required to record commercial cannabis activity in the track-and-trace system as otherwise required by this chapter. Temporary licensees shall record all commercial cannabis activity in accordance with section

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8401 of this chapter.

- (f) Annual licensees may continue to conduct commercial cannabis activities with temporary licensees pursuant to section 8401 of this chapter.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013, 26067, and 26160, Business and Professions Code.

### § 8406. Track-and-Trace System Inventory Requirements.

Licensees shall use the track-and-trace system for all inventory tracking activities at a licensed premises, including, but not limited to, all the following:

- (a) Reconcile all on-premises and in-transit cannabis or nonmanufactured cannabis products inventories at least once every fourteen (14) business days; and
- (b) Record the net weight of all harvested cannabis once the majority of drying, trimming, and curing activities have been completed, or within sixty (60) calendar days from the initial harvest date, whichever is sooner;
- (c) Licensees shall close out their physical inventory of all cannabis and nonmanufactured cannabis products and UIDs, if applicable, prior to the effective date of any of the following changes to their license:
  - (1) Voluntary surrender of a temporary license or annual license;
  - (2) Expiration of an annual license;
  - (3) Revocation of a license.
- (d) Close-out of physical inventory includes, but is not limited to, all of the following items:
  - (1) Immature plants and their corresponding lot UID(s);
  - (2) Mature plants and their corresponding plant UID(s);
  - (3) Harvest batches and their corresponding UID(s);
  - (4) Nonmanufactured cannabis products and their corresponding UID(s); and
  - (5) UIDs in the licensee's possession which have not been assigned in the track-and-trace system.
- (e) All transfers and sales shall be documented pursuant to sections 8401 and 8405 of this chapter.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013 and 26067, Business and Professions Code.

### § 8407. Track-and-Trace System Requirements for Product in Licensee's Possession at the Time of Annual License Issuance.

- (a) Within thirty (30) business days of receipt of the UIDs ordered pursuant to section 8403 of this chapter, the licensee shall enter into the track-and-trace system and assign and apply a UID to each existing immature plant lot, each

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individual mature plant, and all nonmanufactured cannabis products physically located on the licensed premises.

(b) After the thirty (30) day time frame referenced in subsection (a) above expires, all cannabis at the licensed premises shall be entered into the track-and-trace system starting with seed, clone propagated onsite or purchased from a licensed nursery, or seedling purchased from a licensed nursery pursuant to this chapter. This section shall remain in effect until July 1, 2019.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013 and 26067, Business and Professions Code.

### § 8408. Inventory Audits.

The department may perform an audit of the physical inventory and inventory as reported in the track-and-trace system of any licensee at the department's discretion. ~~Audits~~ Inventory audits of the licensee shall be conducted during standard business hours or at other reasonable times as mutually agreed to by the department and the licensee. For the purposes of this section, standard business hours are 8:00am – 5:00pm (Pacific Standard Time). Prior notice of an inventory audit is not required.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013, 26015 and 26067, Business and Professions Code.

### § 8409. Notification of Diversion, Theft, Loss, or Criminal Activity.

Licensees shall notify the department and law enforcement authorities within three (3) business days of discovery of any diversion, theft, loss of, or criminal activity related to licensee's cannabis or nonmanufactured cannabis products.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013 and 26015, Business and Professions Code.

## Article 6. Inspections, Investigations, and Audits

### § 8500. Inspections, Investigations, and Audits Applicability.

All licensees and applicants shall be subject to inspection, investigation, or audit of their licensed premises and records by the department to determine compliance with applicable laws and regulations.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013 and 26015, Business and Professions Code.

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### § 8501. Inspections, Investigations, and Audits.

The department shall conduct inspections, investigations, and audits of licensees including, but not limited to, a review of any books, records, accounts, inventory, or onsite operations specific to the license.

- (a) The department may conduct an inspection, investigation, or audit for any of the following purposes:
- (1) To determine accuracy and completeness of the application prior to issuing a license;
  - (2) To determine compliance with license requirements including, but not limited to, the cultivation plan;
  - (3) To audit or inspect any records outlined in section 8400 of this chapter;
  - (4) To respond to a complaint(s) received by the department regarding the licensee;
  - (5) To inspect incoming or outgoing shipments of cannabis and nonmanufactured cannabis products; and
  - (6) As deemed necessary by the department.
- (b) ~~All inspections~~ Inspections, investigations, and audits of the licensed premises shall be conducted at any time, or as otherwise agreed to by the department and the licensee or its agents, employees, or representatives. ~~during standard business hours or at other reasonable times as mutually agreed to by the department and the licensee. For the purposes of this section, standard business hours are 8:00am – 5:00pm (Pacific Standard Time).~~ Prior notice of inspection, or investigation ~~or audit~~ is not required.
- (c) No applicant, licensee, its agent or employees shall interfere with, obstruct, or impede the department's inspection, investigation, or audit. This includes, but is not limited to, the following actions:
- (1) Denying the department access to the licensed premises;
  - (2) Providing false or misleading statements;
  - (3) Providing false, falsified, fraudulent, or misleading documents and records; and
  - (4) Failing to provide records, reports, and other supporting documents.
- (d) Upon completion of an inspection, investigation, or audit, the department shall notify the applicant or licensee of any violation(s) and/or action(s) the department is taking.

Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013, 26015, and 26160, Business and Professions Code.

### Article 7. Enforcement

#### § 8600. Enforcement Applicability.

Notwithstanding any other provision of law, the department may take a licensing or administrative action at any time within five (5) years after the department discovers, or with reasonable diligence should have discovered, any violation of state law or local ordinances.



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Authority: Sections 26012 and 26013, Business and Professions Code. Reference: Sections 26013 and 26031, Business and Professions Code.

§ 8601. Administrative Actions.

The department shall use the violation classes and applicable fine amounts as follows:

- (a) For the purpose of this section, violation classes are designated as "Minor," "Moderate," and "Serious."
  - (1) "Serious." - Violations which preclude or significantly interfere with enforcement, or those that cause significant false, misleading, or deceptive business practices, potential for significant level of public or environmental harm, or for any violation that is a repeat of a Moderate violation that occurred within a two-year period and that resulted in an administrative civil penalty. All serious violations are subject to license revocation.
  - (2) "Moderate." - Violations that undermine enforcement, are likely to cause public or environmental harm, or are a repeat of a Minor violation that occurred within a two-year period and resulted in an administrative civil penalty.
  - (3) "Minor." - Violations that are not likely to have an adverse effect on public safety or environmental health.
- (b) Repeat violations may result in an escalation of violation class.
- (c) Pursuant to section 26038(a) of the Business and Professions Code, a person(s) engaging in commercial cannabis activity without a license shall be subject to civil penalties of up to three (3) times the amount of the license fee for each violation.
- (d) Pursuant to section 26160(f) of the Business and Professions Code, if a licensee, or an agent or employee of the licensee, fails to maintain or provide required records, the licensee shall be subject to a citation and a fine of up to thirty thousand dollars (\$30,000) per individual violation.
- (e) Table A below shall be used to establish the initial level of severity of a particular violation and the corresponding penalty range for "Serious," "Moderate," and "Minor" violation classes.

TABLE A:		Violation Type		
		Minor	Moderate	Serious
Authority	Description of Violation	Fine Range	Fine Range	Fine Range
		\$100 - \$500	\$501 - \$1,000	\$1,001 - \$5,000

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BPC 26053(a)	Licensee engaged in commercial cannabis activity with an unlicensed person.	-	-	X
BPC 26055(b)	Licensee continued to operate after revocation of state license.	-	-	X
BPC 26060.1(a)	Licensee used a water source that was not identified or permitted on their application.	-	-	X
BPC 26050.1(a) 3 CCR 8100(b)	After January 1, 2018, licensee engaged in commercial cannabis activity prior to obtaining a temporary license.	-	-	X
BPC 26031 3 CCR 8108	Failure to dispose of cannabis waste as identified in the licensee's approved waste management plan.	-	X	-
BPC 26031 3 CCR 8108	Failure to deposit cannabis waste at a manned, fully permitted solid waste landfill or transformation facility; manned, fully permitted composting facility or manned composting operation; manned, fully permitted in-vessel digestion facility; manned, fully permitted in-vessel digestion operation; or manned, fully permitted chip and grind operation or facility.	-	X	-
BPC 26031 3 CCR 8201	Licensee total canopy size on licensed premises exceeded the total allowable canopy size for the license type.	-	-	X
BPC 26031 3 CCR 8202(b)	Failure to obtain a separate license for each premises where the licensee engaged in commercial cannabis cultivation.	-	-	X

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BPC 26031 3 CCR 8202(c)	Licensee transferred or assigned their cultivation license to <del>an other</del> <u>another</u> person, entity, or property.	-	-	X
BPC 26031 3 CCR 8202(d)	Licensee transferred cannabis and nonmanufactured cannabis products from their licensed premises to another licensee without using a licensed distributor.	-	-	X
BPC 26031 3 CCR 8202(e)	Failure to prominently display license on licensed premises where it can be viewed by state and local agencies.	X	-	-
<del>BPC 26031 3 CCR 8202 (f)</del>	<del>Licensee holding both an A and an M license on the same premises failed to keep the respective inventory of cannabis products separate and distinct.</del>	<del>X</del>	<del>-</del>	<del>-</del>
BPC 26031 3 CCR 8202(g)	Licensee sublet a portion of the licensed premises.	X	-	-
BPC 26031 3 CCR 8204(a)	Failure to notify the department in writing within ten (10) calendar days of any changes to any item listed in the application or any of the events pursuant to section 8204(a)(1)-(5) of this chapter.	X	-	-
BPC 26031 3 CCR 8204(b)	Failure to submit a new application for a change in business entity type.	-	X	-
BPC 26031 3 CCR 8204(c)(1)	Failure to notify the department in writing of a penalty or judgment of a criminal conviction or civil judgment rendered against the licensee <u>or any owner</u> within forty-eight (48) hours of	X	-	-

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	receiving a penalty or judgement of a criminal penalty or civil judgement.			
BPC 26031 3 CCR 8204(c)(2)	Failure to notify the department in writing of a revocation of a local license, permit, or other authorization within forty-eight (48) hours of the revocation.	X	-	-
BPC 26031 3 CCR 8205(a)	Licensee made physical modifications to the licensed premises that materially or substantially altered the licensed premises or use of the licensed premises from the premises diagram originally filed with the license application without receiving prior written approval from the department.	-	X	-
BPC 26031 3 CCR 8205(b)	Failure to file a request for approval of a premises modification with the department associated with a physical modification of the licensed premises.	X	-	-
BPC 26031 3 CCR 8205(c)	Failure to provide additional documentation requested by the department to evaluate the request for approval of a premises modification.	X	-	-
BPC 26031 3 CCR 8206(a)	Failure to notify the department within ten (10) business days of the death, incapacity, receivership, assignment for the benefit of creditors of a licensee, or other event rendering a licensee incapable of performing the duties associated with the license.	-	X	-

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<p>BPC 26031 3 CCR 8207(h)(1)</p>	<p>Failure to move cannabis and nonmanufactured cannabis products to a secure location where access to the cannabis is restricted to the licensee, its employees, and contractors.</p>	<p>X</p>	<p>-</p>	<p>-</p>
<p>BPC 26031 3 CCR 8207(h)(2)</p>	<p>Failure to notify the department, in writing, within twenty-four (24) hours of moving cannabis and nonmanufactured cannabis products and requesting relief pursuant to section 8207 of this chapter.</p>	<p>X</p>	<p>-</p>	<p>-</p>
<p>BPC 26031 3 CCR 8207(h)(3)</p>	<p>Failure to provide the department access to the location where cannabis and nonmanufactured cannabis products were moved pursuant to section 8207 of this chapter.</p>	<p>X</p>	<p>-</p>	<p>-</p>
<p>BPC 26031 3 CCR 8207(h)(4)</p>	<p>Failure to submit, in writing, a request for temporary relief that clearly indicates the statutory and regulatory sections from which relief is being requested, the time period for which the relief is requested, and the reason relief is needed, within ten (10) days of moving cannabis and nonmanufactured cannabis products pursuant to section 8207 of this chapter.</p>	<p>X</p>	<p>-</p>	<p>-</p>
<p>BPC 26031 3 CCR 8208(a)</p>	<p>Failure to notify the department when licensee surrenders, abandons, quits, or closes the premises for a period</p>	<p>X</p>	<p>-</p>	<p>-</p>

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	exceeding thirty (30) consecutive calendar days.			
BPC 26031 3 CCR 8208(a)	Failure to notify the department within thirty (30) calendar days of quitting or abandoning the licensed premises.	-	X	-
BPC 26031 3 CCR 8210	Failure to allow the bureau to collect samples for the bureau's own laboratory analysis from cannabis transferred to a licensed distributor.	-	X	-
BPC 26031 3 CCR 8211	Licensee accepted returns of cannabis plants or nonmanufactured products transferred to another licensee after testing performed pursuant to section 26110 of the Business and Professions Code.	X	-	-
BPC 26031 3 CCR 8212	Failure to comply with packaging requirements.	X	-	-
BPC 26031 3 CCR 8212	Failure to comply with labeling requirements.	X	-	-
BPC 26031 3 CCR 8213(a)	Failure to use weighing devices for commercial purposes <u>or for determining quantity for entry in the track-and-trace system, approved, tested and sealed pursuant to chapter 5 (commencing with section 12500) of division 5 of the Business and Professions Code, and registered with the county sealer pursuant to chapter 2 (commencing with section 12240) of division 5 of the Business and Professions Code.</u>	X	-	-

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BPC 26031 3 CCR 8213( <del>e</del> )	Failure to become licensed as a weighmaster for bulk shipments of cannabis and nonmanufactured cannabis products.	X	-	-
BPC 26031 3 CCR 8213( <del>e</del> )	Failure to issue weighmaster certificate pursuant to chapter 7 (commencing with section 12700) of division 5 of the Business and Profession Code.	X	-	-
<del>BPC 26031 3 CCR 8214</del>	<del>After July 1, 2018, licensee conducted commercial cannabis activities with other licensees that did not have the same A or M designation of the licensee.</del>	<del>X</del>	<del>-</del>	<del>-</del>
BPC 26031 3 CCR 8300(a)	Failure to move flowering cannabis plants, without delay, from the designated propagation area(s) to the designated canopy area(s) and report the movement and UID tagging in the track-and-trace system.	-	-	X
BPC 26031 § 3 CCR 8300(b)	Failure to properly apply UIDs to cannabis plants used for seed production pursuant to section 8403 of this chapter.	X	-	-
BPC 26031 3 CCR 8300(c)	Licensee propagating immature plants for distribution or seed for distribution without a nurse license.	-	-	X
BPC 26031 3 CCR 8300(d)	Licensee processed cannabis on the licensed premises in an area(s) not designated for processing as identified on their approved cultivation plan.	-	X	-
BPC 26031 3 CCR 8300(d)	Processing cannabis on licensee's premises without compliance to	-	X	-

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	packaging or labeling requirements pursuant to section 8212 of this chapter.			
BPC 26031 3 CCR 8301	Failure to properly apply UIDs to mature cannabis plants used for seed production pursuant to section 8403 of this chapter.	-	-	X
BPC 26031 3 CCR 8301	Licensee allowed nonmanufactured cannabis products to enter the commercial distribution chain other than seed.	-	-	X
BPC 26031 3 CCR 8302	Licensee conducted research and development in areas that were not identified in their approved cultivation plan.	-	-	X
BPC 26031 3 CCR 8302	Failure to properly tag with a UID, mature plants maintained in the area on the licensed premises designated for research and development.	-	X	-
BPC 26031 3 CCR 8302	Licensee allowed cannabis and nonmanufactured cannabis products from the research and development area to enter the commercial distribution chain.	-	-	X
BPC 26031 3 CCR 8303(a)	Failure to adhere to track-and-trace requirements for aggregation of cannabis products pursuant to sections 8405 and 8406 of this chapter.	-	X	-
BPC 26031 3 CCR 8303(b)	Failure to adhere to product packaging and labeling requirements, pursuant to section 8212 of this chapter, for nonmanufactured cannabis products.	X	-	-



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BPC 26031 3 CCR 8303(c)	Processor licensee cultivated cannabis plants on their licensed premises.	-	-	X
BPC 26031 3 CCR 8304(a)-(g)	Failure to comply with specified general environmental protection measures.	-	-	X
BPC 26031 3 CCR 8305(a)-(c)	Failure to comply with specified renewable energy requirements.	-	-	X
BPC 26031 3 CCR 8306(a)-(d)	Failure to comply with specified generator requirements.	-	-	X
BPC 26031 3 CCR 8307(a)-(b)	Failure to comply with specified pesticide use requirements.	-	-	X
BPC 26031 3 CCR 8308(d)	Failure to dispose of cannabis waste in a secure waste receptacle or in a secured area on the licensed premises.	-	X	-
BPC 26031 3 CCR 8308(i)	Failure to use track-and-trace system and documentation required pursuant to sections 8404 and 8405 of this chapter to ensure the cannabis waste materials are identified, weighed, and tracked while on the licensed premises and when disposed of pursuant to subsections (f), (g), and (h) of section 8308.	-	X	-
BPC 26031 3 CCR 8308(j)	Failure to maintain accurate and comprehensive records regarding cannabis waste material that account for, reconcile, and evidence all activity related to the generation and disposal or disposition of cannabis waste.	-	X	-
BPC 26031 3 CCR 8400(b)	Failure to provide or deliver required records, upon request.	-	-	X

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BPC 26031 3 CCR 8400(d)	Failure to maintain all required records.	-	-	X
BPC 26031 3 CCR 8400(e)	Failure to maintain suitability of records for inspection by the department.	X	-	-
BPC 26031 3 CCR 8401	Failure to prepare a sales invoice or receipt for every sale or transport of cannabis or nonmanufactured cannabis product to another licensee.	-	X	-
BPC 26031 3 CCR 8402(a)	Failure to accurately and completely enter data and information into the track-and-trace system.	X	-	-
BPC 26031 3 CCR 8402(b)(1)	Failure to designate an owner or other <u>natural person</u> <del>party</del> that can legally represent the licensee as a track-and-trace account manager.	-	X	-
BPC 26031 3 CCR 8402(b)(2)	Failure to have licensee designated track-and-trace account manager(s) complete track-and-trace system training as required by the department.	-	X	-
BPC 26031 3 CCR 8402(b)(3)	Licensee track-and-trace system account manager failed to properly train all track-and-trace system users before the users were permitted to access the track-and-trace system.	-	X	-
BPC 26031 3 CCR 8402(b)(4)	Failure to maintain an accurate and complete list of all track-and-trace users and the account manager(s).	-	X	-
BPC 26031 3 CCR 8402(b)(5)	Failure to cancel a track-and-trace account manager or user account	-	X	-

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	when that individual is no longer a representative of the licensee.			
BPC 26031 3 CCR 8402(b)(6)	Failure to correct data entered into the track-and-trace system in error within three (3) business days of discovery of the error.	-	X	-
BPC 26031 3 CCR 8402(d)	Failure to prepare and maintain comprehensive records detailing all tracking inventory activities which occurred during a loss of access/connectivity to the track-and-trace system.	-	X	-
BPC 26031 3 CCR 8402(d)(1)	Failure to enter all inventory tracking activities that occurred during a loss of access to the track-and-trace system within three (3) business days <del>if</del> of the loss of access.	-	X	-
BPC 26031 3 CCR 8402(d)(2)	Failure to document the date and time when licensee lost access to the track-and-trace system, the cause of the loss, and when access was restored.	-	X	-
BPC 26031 3 CCR 8402(d)(3)	Licensee transferred cannabis or nonmanufactured products to a distributor without having access to the track-and-trace system.	-	X	-
BPC 26031 3 CCR 8403(a)	Failure to request UIDs as prescribed by the department.	-	X	-
BPC 26031 3 CCR 8403(a)(1)	Failure to use only UIDs provisioned and distributed by the department, or the department's designee.	-	X	-

TEXT OF EMERGENCY REGULATIONS

BPC 26031 3 CCR 8403(a)(2)	Failure to maintain a sufficient supply of UIDs to support tagging requirements.	-	X	-
BPC 26031 3 CCR 8403(a)(3)	Failure to use track-and-trace system to document receipt of provisioned and distributed UIDs within three (3) business days of physical receipt of the UIDs by the licensee.	-	X	-
BPC 26031 3 CCR 8403(b)(1)	Failure to properly assign a UID to each lot of immature plants.	-	X	-
BPC 26031 3 CCR 8403(b)(1)	Licensee had more than one hundred (100) immature plants in a lot.	-	X	-
BPC 26031 3 CCR 8403(b)(1)	Failure to keep immature plants contiguous to one another to facilitate identification of the immature lot by the department.	-	X	-
BPC 26031 3 CCR 8403(b)(1)	Failure to label each plant in an immature lot with a label containing the UID number assigned to the immature lot by the licensee.	-	X	-
BPC 26031 3 CCR 8403(b)(2)	Licensee failed to properly apply UID to immature plants transported from a licensed nursery to a licensed cultivation site.	-	X	-
BPC 26031 3 CCR 8403(b)(2)	Licensee failed to properly apply UID to immature plants intended for retail sale.	-	X	-
BPC 26031 3 CCR 8403(b)(3)	Failure to apply UID to all individual plants at the time the plants were moved to the designated canopy area, identified in the licensee's approved cultivation plan or when individual	-	X	-

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	plants began flowering, as defined in section 8000(l).			
BPC 26031 3 CCR 8403(b)(3)	Licensee applied UID to an individual plant that was not associated with the UID from the lot of immature plants it was derived from.	-	X	-
BPC 26031 3 CCR 8403(b)(4)	Licensee failed to properly place and maintain the required UID on each mature plant.	-	X	-
BPC 26031 3 CCR 8403(b)(4)	Licensee removed UID from the mature plant to which it was attached and assigned prior to the plant being harvested, destroyed, or disposed.	-	X	-
BPC 26031 3 CCR 8403(c)	Failure to assign a unique harvest batch name that is associated with all UIDs for each individual plant, or portion thereof, contained in the harvest batch.	-	-	X
BPC 26031 3 CCR 8403(d)	Failure to assign a UID to cannabis and nonmanufactured cannabis products corresponding to the unique harvest batch name from which the cannabis and nonmanufactured cannabis products were derived.	-	-	X
BPC 26031 3 CCR 8403(e)	Failure to retire UIDs in the track-and-trace system associated with the destruction or disposal of cannabis or nonmanufactured cannabis products.	-	-	X
BPC 26031 3 CCR 8404(b)	Failure to obtain a unique track-and-trace system user log-on for each user entering information into the track-and-trace system.	X	-	-

TEXT OF EMERGENCY REGULATIONS

BPC 26031 3 CCR 8404(b)	Licensee, designated account manager, or track-and-trace system user used or shared their unique <del>log-in</del> <u>log-on</u> with another person.	X	-	-
BPC 26031 3 CCR 8404(c)	Misrepresented or falsified data and information entered into the track-and-trace system.	-	-	X
BPC 26031 3 CCR 8404(d)	Failure to monitor notifications and/or resolve issues included in the notification in the time frame specified in the notification.	X	-	-
BPC 26031 3 CCR 8405(a)	Failure to report through the track-and-trace system, any and all transfers of cannabis or nonmanufactured cannabis products to another licensed entity prior to movement of the cannabis or nonmanufactured cannabis products off the licensed premises.	-	-	X
BPC 26031 3 CCR 8405(b)	Failure to report through the track-and-trace system, any and all receipt or rejection of cannabis or nonmanufactured cannabis products received or rejected by the licensee on their licensed premises from another licensee within twenty-four (24) hours of receipt or rejection of the products.	-	-	X
BPC 26031 3 CCR 8405(c)	Failure to report in the track-and-trace system any change in the disposition of cannabis plants on the licensed premises or transfer of any cannabis or nonmanufactured cannabis products	-	X	-

TEXT OF EMERGENCY REGULATIONS

	to another licensed premises within three (3) business days of the change in disposition.			
BPC 26031 3 CCR 8405(d) (1-9)	Licensee failed to record all required information for each transfer of cannabis or nonmanufactured cannabis products to, or cannabis or nonmanufactured cannabis products received from, other licensed premises.	-	X	-
BPC 26031 3 CCR 8406(a)	Failure to reconcile all on-premises and in-transit cannabis or nonmanufactured cannabis product inventories at least once every fourteen (14) business days.	-	X	-
BPC 26031 3 CCR 8406(b)	Failure to record the dry weight of all harvested cannabis once all drying and curing activities have been completed, or within sixty (60) calendar days from the initial harvest date, whichever is sooner.	-	X	-
BPC 26031 3 CCR 8406(c) and (d)	Failure to close out physical inventory of all cannabis, nonmanufactured cannabis products, and UIDs in the track-and-trace system.	-	X	-
BPC 26031 3 CCR 8406(e)	Failure to record all transfers and sales pursuant to section 8401 and 8405 of this chapter.	-	X	-
BPC 26031 3 CCR 8407(a)	Failure to timely and properly assign and apply UIDs to each existing immature lot, individual mature plant, and <u>all</u> nonmanufactured cannabis	-	-	X

TEXT OF EMERGENCY REGULATIONS

	products physically located on the licensed premises on the date of license issuance. (This section shall remain in effect until July 1, 2019.)			
BPC 26031 3 CCR 8407(b)	Failure to timely and properly enter in the track-and-trace system the information associated with each existing immature lot, individual mature plant, and <u>all</u> nonmanufactured cannabis products physically located on the licensed premises on the date of license issuance. (This section shall remain in effect until July 1, 2019.)	-	-	X
BPC 26031 3 CCR 8409	Failure to notify the department and law enforcement authorities within three (3) business days of discovery of any diversion, theft, loss of, or criminal activity related to licensee's cannabis or nonmanufactured cannabis products.	-	-	X
BPC 26031 3 CCR 8501(c)(1)	Applicant, licensee, its agent or employees denied the department access to the licensed premises.	-	-	X
BPC 26031 CCR 8501(c)(2)	Licensee provided false or misleading statements.	-	-	X
BPC 26031 3 CCR 8501(c)(3)	Licensee provided false, falsified, or misleading documents and records.	-	-	X
BPC 26031 3 CCR 8501(c)(4)	Failure to provide records, reports, and other supporting documents.	-	-	X
BPC 26031 3 CCR 8603 (c)	Failure to physically segregate all designated cannabis or	-	-	X



TEXT OF EMERGENCY REGULATIONS

	nonmanufactured cannabis products subject to hold within twenty-four (24) hours of receipt of the notice of administrative hold.			
BPC 26031 3 CCR 8603 (d)	Licensee sold, donated, transferred, transported, or destroyed cannabis or nonmanufactured cannabis products subject to hold.	-	-	X
BPC 26031 3 CCR 8603 (e)	Failure to put all cannabis and nonmanufactured cannabis products on hold into separate batches.	-	-	X
BPC 26031 3 CCR 8603 (f)	Failure to identify in the track-and-trace system cannabis or nonmanufactured cannabis products subject to an administrative hold which were voluntarily surrendered by the licensee.	-	-	X

Authority: Sections 26012, 26013 and 26031, Business and Professions Code. Reference: Sections 26013 and 26031, Business and Professions Code.

§ 8602. Notice of Violation.

- (a) The department shall issue a Notice of Violation to a licensee that is in violation of applicable statutes and regulations. A Notice of Violation shall be served upon the licensee and legal owner of the property. The Notice of Violation shall contain all of the following:
- (1) A brief statement of the violation(s) alleged;
  - (2) The proposed penalty;
  - (3) A statement of whether the violation is correctable, and a timeframe in which the violation shall be corrected; and
  - (4) Notice of an administrative hold of property, if applicable.
- (b) The right to a hearing will be deemed waived if respondent fails to respond in writing within thirty (30) calendar days from the date the Notice of Violation was received by the licensee.

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Authority: Sections 26012, 26013, and 26031, Business and Professions Code. Reference: Sections 26013 and 26031, Business and Professions Code.

### § 8603. Administrative Hold Procedure.

To prevent destruction of evidence, illegal diversion of cannabis or nonmanufactured cannabis products, or to address potential threats to the environment or public safety, while allowing a licensee to retain its inventory pending further inspection, or enforcement action, the department may order an administrative hold of cannabis or nonmanufactured cannabis products pursuant to the following procedure:

- (a) The notice of administrative hold shall provide a documented description of the cannabis or nonmanufactured cannabis products to be subject to the administrative hold and a concise statement regarding the basis for issuing the administrative hold.
- (b) Following the issuance of a notice of administrative hold to the licensee, the department shall identify the cannabis or nonmanufactured cannabis products subject to the administrative hold in the track-and-trace system.
- (c) Within twenty-four (24) hours of receipt of the notice of administrative hold, the licensee shall physically segregate all designated cannabis ~~or~~ and/or nonmanufactured cannabis products subject to the hold and shall safeguard and preserve the ~~subject~~ property subject to administrative hold as noticed.
- (d) While the administrative hold is in effect, the licensee is restricted from selling, donating, transferring, transporting, gifting, giving away, or destroying the subject property noticed.
- (e) Nothing herein shall prevent a licensee from the continued possession, cultivation, or harvesting of the cannabis subject to the administrative hold. During the hold period, all cannabis or nonmanufactured cannabis products subject to an administrative hold shall be put into separate batches.
- (f) Nothing herein shall prevent a licensee from voluntarily surrendering cannabis or nonmanufactured cannabis products that are subject to an administrative hold. The licensee shall identify the cannabis or nonmanufactured cannabis products being voluntarily surrendered in the track-and-trace system. Voluntary surrender does not waive the right to a hearing and any associated rights.
- (g) The licensee shall have the right to appeal an administrative hold ordered by the department pursuant to section 8604 of this chapter. The department shall schedule an informal hearing within ten (10) calendar days from receipt of the request for an informal hearing and issue the written decision within five (5) calendar days after the conclusion of the hearing.

Authority: Sections 26012, 26013, and 26031, Business and Professions Code. Reference: Sections 26013 and 26031, Business and Professions Code.

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### § 8604. Informal Administrative Hearings.

- (a) The respondent may appeal a Notice of Violation or an administrative hold and request an informal hearing by written correspondence to the California Department of Food and Agriculture, Legal Office of Hearings and Appeals, 1220 "N" Street, Suite 400, Sacramento, California 95814 or via email to [CDFA.LegalOffice@cdfa.ca.gov](mailto:CDFA.LegalOffice@cdfa.ca.gov). The request shall be received within thirty (30) calendar days from the date the Notice of Violation was received by the respondent. The request shall include the following:
- (1) The respondent's name, mailing address, and daytime phone number;
  - (2) If applicable, the license number issued by the department;
  - (3) Copy of the Notice of Violation; and
  - (4) A clear and concise statement for the basis of the appeal or counts within the Notice of Violation.
- (b) Failure to submit a timely written request constitutes a waiver of the respondent's right to contest the Notice of Violation. Untimely requests for an informal hearing will not be considered.
- (c) If the Notice of Violation places an administrative hold on cannabis or nonmanufactured cannabis products, the hold shall remain in effect pending the outcome of the informal hearing.

Authority: Sections 26012, 26013, and 26031, Business and Professions Code. Reference: Sections 26013 and 26031, Business and Professions Code.

### § 8605. Informal Hearing Schedule and Notification.

- (a) The department shall schedule an informal hearing within forty-five (45) calendar days from receipt of the request for an informal hearing.
- (b) The department shall provide a notice of the informal hearing to the respondent containing the following information:
- (1) Date, location, and time of the informal hearing;
  - (2) Summary of the violations;
  - (3) Any other information or documentation necessary for the hearing; and
  - (4) Standard of Proof.

Authority: Sections 26012, 26013 and 26031, Business and Professions Code. Reference: Sections 26013 and 26031, Business and Professions Code.

### § 8606. Conduct of Informal Hearings.

Informal hearings shall be conducted as follows:

- (a) The standard of proof to be applied by the hearing officer shall be a preponderance of the evidence;

## TEXT OF EMERGENCY REGULATIONS

- (b) Hearings may be conducted by phone at the request of the respondent;
- (c) The decision of the hearing officer shall be in writing and shall include a statement of the factual legal basis of the decision;
- (d) The written decision shall be issued within thirty (30) calendar days after the conclusion of the hearing and may be issued orally at the conclusion of the hearing subject to written confirmation;
- (e) The decision shall be served on the respondent either by personal service, mail, email or via facsimile per respondent's request/direction; and
- (f) The respondent may appeal the department's decision to the Cannabis Appeals Board in accordance with Business and Professions Code section 26043 ~~hearing officer's decision by filing a petition for a writ of administrative mandamus in accordance with the provisions of the section 1094.5 of the Code of Civil Procedure.~~

Authority: Sections 26012, 26013, and 26031, Business and Professions Code. Reference: Sections 26013 and 26031, Business and Professions Code.

### § 8607. Licensing Actions.

- (a) The department may take a licensing action for any violation of this chapter.
- (b) If the licensee holds multiple cultivation licenses, the department may take any one of, or combination of, the following actions on all the licensee's cultivation licenses:
  - (1) Revocation of the license;
  - (2) Suspension of the license for a specified period of time;
  - (3) Issuance of a probationary license with terms and conditions determined by the department; and
  - (4) Order an administrative hold of cannabis or nonmanufactured cannabis products.

Authority: Sections 26012, 26013, and 26031, Business and Professions Code. Reference: Sections 26013 and 26031, Business and Professions Code.

### § 8608. Formal Administrative Hearings.

- (a) Notice shall be given to the applicant or licensee of the department's intent to hold adjudication proceedings to consider the following actions:
  - (1) Denial of an application for a license;
  - (2) Denial of a license renewal;
  - (3) Revocation of a license; and
  - (4) Suspension of a license for a specified period of time.

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(b) Hearings concerning proceedings in subsection (a) above shall be held pursuant to chapter 5 (commencing with section 11500) of part 1 of division 3 of title 2 of the Government Code.

Authority: Sections 26012, 26013, and 26031, Business and Professions Code. Reference: Sections 26013 and 26031, Business and Professions Code.

## **FINDING OF EMERGENCY**

### **Readoption of Emergency Regulations**

(Gov. Code § 11346.1, subd. (b); Cal. Code Regs., tit. 1, § 50)

Pursuant to Section 26013(b)(3) of California's Business and Professions Code, the readoption of emergency regulations necessary to implement, administer and enforce the duties of the California Department of Food and Agriculture (Department) is deemed an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare. The initial emergency regulations and the readopted emergency regulations authorized by this section shall remain in effect for no more than 180 days, by which time final regulations may be adopted.

The Department submitted an emergency rulemaking that was filed by the Office of Administrative Law (OAL) on November 27, 2017 in order to implement the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) and begin licensing commercial cannabis farmers January 1, 2018.

### **Specific Facts Demonstrating the Need for Immediate Action**

Readoption on an emergency basis is necessary to ensure that the licensing and enforcement of cannabis cultivators continues until permanent regulations can be adopted later this year. All of the circumstances justifying the initial adoption of the emergency regulations remain unchanged. Therefore, the Finding of Emergency that was submitted and approved by OAL with the adoption of the Cannabis Cultivation Licensing emergency regulations (OAL File No. 2017-1127-02E), effective December 7, 2017, is incorporated by reference herein.

### **Diligent Adoption of Permanent Regulations**

As required for readoption of emergency regulations, the Department has made substantial progress and is proceeding with diligence to comply with Government Code section 11346.1, subdivision (e). (Cal. Code Regs., title 1, section 52(b)(1).) The following actions demonstrate the Department's progress toward the adoption of permanent regulations:

Since the emergency regulations were originally approved in December 2017, the Department has engaged in the following:

- Department staff has continually met with the other licensing agencies and stakeholders to discuss the effectiveness of the emergency regulations since temporary licenses went into effect January 1, 2018 and businesses began operating in California's newly-legal commercial cannabis market.
- The Department reviewed and evaluated the 155 public comments received during the public comment period for the emergency regulations.

- The Department has engaged with the state's Cannabis Advisory Committee, whose purpose is to advise the state's cannabis licensing authorities on the development of regulations that help protect public health and safety and reduce the illegal market for cannabis. The Department is working on implementing some of the Cannabis Advisory Committee's recommendations into its permanent regulations.

### **Authority and Reference**

The Department is proposing to adopt sections 8000 – 8608 of Title 3 of the California Code of Regulations.

Business and Professions Code (BPC) sections 26000, 26001, 26012, 26013, 26050.1, 26053, 26055, 26060.1 and Health and Safety Code (HSC) 11362.768 authorize the Department to prescribe, adopt, and enforce the emergency regulations governing the licensing of commercial cannabis cultivation. The emergency regulations will implement, interpret, make specific, or reference sections 12027, 12210, 12212, 12700, 26001, 26010, 26012, 26013, 26015, 26031, 26038, 26050, 26050.1, 26051, 26051.5, 26053, 26054, 26054.2, 26055, 26057, 26058, 26060, 26060.1, 26061, 26063, 26066, 26067, 26069, 26070, 26110, 26120, 26121, 26160, 26180, and 26201 of the Business and Professions Code (BPC), sections 1602 and 1617 of the Fish and Game Code, section 12754.5 of the Food and Agricultural Code, section 1140 of the Labor Code, sections 40141 and 42649.8 of the Public Resources Code, and sections 5101, 13149, 13575, and 13751 of the Water Code.

### **Informative Digest**

#### *Existing Law:*

Proposition 215 (1996), passed by California voters, also known as the Compassionate Use Act of 1996 prohibited prosecution for growing or using cannabis of Californians who have an oral or written recommendation from their doctors (patients), and these patients' caregivers.

Senate Bill 420 (2003), the Medical Marijuana Program Act enacted by the Legislature, required the establishment of a program for the issuance of identification cards to qualified patients so that they may lawfully use cannabis for medical purposes, and required the establishment of guidelines, including limits, for the lawful cultivation of cannabis grown for medical use.

Assembly Bill 243 (Chapter 688, 2015), Assembly Bill 266 (Chapter 689, 2015), and Senate Bill 643 (Chapter 719, 2015), established a regulatory program for the cultivation of medical cannabis as part of the Medical Cannabis Regulation and Safety Act (MCRSA). The MCRSA mandated the Department to establish the Medical Cannabis Cultivation Program (MCCP) to regulate, implement, and enforce the MCRSA as it pertains to the cultivation of commercial medical cannabis. The legislation mandated regulation to encourage environmental protection measures by the cultivator to prevent further pollution of water, degradation of the natural environment, wildlife endangerment, and to protect public peace, health, and safety. The Department is required to develop and enforce regulations for statewide commercial medical cannabis cultivation activities occurring at nurseries; and indoor, outdoor, and mixed-light

cultivation sites. The MCRSA also obligated the Department to create and implement a track-and-trace system to monitor commercial medical cannabis from cultivation through the distribution chain, to be the lead agency in implementing California Environmental Quality Act (CEQA) requirements for the statewide cultivation program, and ensure that weighing or measuring devices used for the sale or distribution of medical cannabis are required to meet standards equivalent to Division 5 (commencing with section 12001). Fees associated with cultivation are required to be scaled and must cover the Department's costs of implementing and enforcing the commercial cultivation licensing program and subsequent regulations. The MCRSA has since been repealed, but all of the Department's obligations listed above have been incorporated into the MAUCRSA.

AUMA (2016) legalized the consumption and cultivation of cannabis for adult use and specifies conditions under which cannabis may be cultivated, processed, and sold for commercial purposes in California.

MAUCRSA, also known as Senate Bill 94 (2017), repeals the MCRSA, which was established by AB 266, AB 243, Senate Bill (SB) 643, and SB 837, and incorporates the Department's obligations under the MCRSA into the AUMA. MAUCRSA combines the MCRSA and AUMA into one single system that prioritizes consumer and public safety, environmental protection, and tax compliance for commercial cannabis cultivation. This law creates agricultural cooperatives for small cannabis cultivators, a method for collecting and remitting taxes, a process for testing and packaging, and a process for collecting data related to driving under the influence.

Assembly Bill (AB) 133 (2017) trailed MAUCRSA making technical changes on cannabis related issues necessary to implement the 2017 Budget Act. This new law further clarifies the intent of the legislature regarding MAUCRSA.

#### *Inconsistency with Federal Regulation Statute*

The United States Drug Enforcement Administration under the Controlled Substances Act lists cannabis as a Schedule 1 Drug. Meaning, this is a drug with a high potential for abuse, has no currently accepted medical use in treatment in the United States, and there is a lack of accepted safety for use of the drug under medical supervision.

Controlled Substances Act, Title 21 - Food and Drugs, Chapter 13 - Drug Abuse and Prevention Control, Subchapter 1 - Control and Enforcement:

<https://www.fda.gov/regulatoryinformation/lawsenforcedbyfda/ucm148726.htm>

#### *Consistency with Existing State Regulations*

As required by Government Code section 11346.5(a)(3)(D), the Department has conducted an evaluation of these emergency regulations and has determined that they are not inconsistent or incompatible with existing regulations.

#### *Policy Statement*

#### Regulation Objectives



The Department has developed these emergency regulations to further clarify or make specific sections of MAUCRSA pertaining to the licensing of commercial cannabis cultivators. The regulations will:

- Address the obligation of the Department to regulate the cultivation of commercial cannabis;
- Establish regulatory licensing and enforcement programs to ensure that cannabis cultivation will be performed in a manner that protects the environment, cannabis cultivation workers, and the general public from the individual and cumulative effects of cultivation operations;
- Develop a track-and-trace system to monitor the movement of cannabis from the cultivation stage through the production chain; and
- Establish uniform standards for licensure for consistency in implementation efforts.

#### Benefits to Cultivators

Under the proposed regulations, commercial cannabis cultivators may be eligible to convert their existing cultivation sites or establish new cultivation sites as licensed California businesses. This is the first opportunity this industry has had to sell product openly and to be recognized as a legitimate California business. The emergency regulations promote a fair and equitable marketplace for licensed commercial cannabis cultivators in California and have been crafted to encourage entry into the regulated industry. The proposed regulations will also provide new protections to commercial California cannabis cultivators from state prosecution.

#### Benefits to the Public

- Safeguarding of the environment through implementation of environmental protection measures and enforcement of existing environmental protection laws;
- Creation of legitimate businesses and tax revenue sources;
- Increased worker safety through enforcement of existing employee protection laws; and
- Reduction in crime.

Another essential component of these regulations is the implementation of what is known as the track-and-trace system. This system will provide safeguards for public health by giving the state the ability to trace cannabis and cannabis products to the source; thereby, preventing any untested and unlicensed cannabis and/or cannabis product from being inserted into the regulated cannabis market. It will also ensure that all cannabis produced at a licensed cultivation site can be accounted for; thus, preventing diversion of regulated product to the unregulated market.

#### Environmental Information and California Environmental Quality Act Compliance

One of the largest effects of unregulated cannabis cultivation has been serious adverse impacts to the environment. The State Water Resources Control Board (SWRCB), the North Coast Regional Water Quality Control Board (RWQCB), and the California Department of Fish and Wildlife (CDFW), have documented an increase in the number of unregulated cannabis cultivation sites and corresponding increases in impacts to water supply and water quality, including the discharge of sediments, pesticides, fertilizers, petroleum hydrocarbons, trash, and human waste.

The Department has prepared and certified the Programmatic Environmental Impact Report (PEIR), in accordance with the provisions of the California Environmental Quality Act. The PEIR provides stakeholders, which includes the public, responsible agencies, and cannabis farmers with information about the potential significant environmental impacts associated with the adoption and implementation of these emergency regulations and mitigations to address significant environmental impacts at cannabis cultivation sites in California.

To access the PEIR, visit the following website: <http://calcannabis.cdfa.ca.gov/>.

**Plain English Requirement**

The Department staff prepared these emergency regulations pursuant to the standard of clarity provided in Government Code section 11349 and the plain English requirements of Government Code sections 11342.580 and 11346.2, subdivision (a)(1). The emergency regulations are written to be easily understood by the persons that will use them.

**Mandate on Local Agencies and/or School Districts**

*LOCAL MANDATE:* There will be no local mandate.

*COST TO ANY LOCAL AGENCY OR SCHOOL DISTRICT REQUIRING REIMBURSEMENT PURSUANT TO GOVERNMENT CODE SECTION 17500 et seq:*

None

*ANY OTHER NON-DISCRETIONARY COST OR SAVINGS IMPOSED UPON LOCAL AGENCIES:*

None

**Cost or Savings Estimate to State Agencies (Fiscal Impact)**

The Economic Impact Statement (STD. 399) that was submitted and approved by OAL with the adoption of the Cannabis Cultivation Licensing emergency regulations, effective December 7, 2017, is incorporated by reference herein.

*ANY COSTS OR SAVINGS IN FEDERAL FUNDING TO THE STATE:*

None.

The Department is tasked with issuing cannabis cultivation licenses and administering all aspects of the cannabis cultivation regulations. The total ongoing annual agency budget of approximately \$32 million includes administration of both medicinal cannabis and adult-use cannabis program activities.

The budget detail is broken-down by Department staff costs, other Department costs, and external consulting and technical services costs (including the track-and-trace program). The total estimated operating costs of the Department for this program is \$47.7 million once regulations are in place and licenses are being issued. This analysis assumes the Department budget represents the market in equilibrium post-Department regulations. These costs will be recovered through application and licensing fees charged to cultivators.

The Department is tasked with enforcing Department regulations for licensed cannabis cultivation operations. This includes site inspections and ensuring cultivator compliance with the track-and-trace system. The Department's enforcement staff will also be responsible for referring complaints about unlicensed operations to appropriate state and local law enforcement.

It is likely that more illegal grow sites will be reported and local and state agencies, including the CDFW, as well as the SWRCB, will need to allocate more resources to eradication. However, because legal cultivators will be licensed by the Department and local authorities, it will be easier for enforcing agencies to identify illegal grow sites and the cost per eradication will likely decrease over time.

### **Purpose and Necessity**

The Department is establishing a commercial cultivation licensing program (program), in accordance with California Business and Professions Code (BPC) sections 26012 and 26013. Within this program, a track-and-trace system will be established to monitor the movement of cannabis and cannabis products from the cultivation stage throughout the distribution chain, in accordance with BPC section 26067.

The proposed emergency regulations required consultation with other state agencies pursuant to the authorities found in the BPC. The California State Water Resources Control Board and the California Department of Fish and Wildlife were consulted pursuant to BPC sections 26051.5(b)(7), 26060.1(c), and 26069(c)(1). The Bureau of Cannabis Control was consulted pursuant to BPC sections 26060, 26060.1, 26067(a), 26068(b), and 26069(c)(1). The California Department of Tax and Fee Administration (formerly known as the California State Board of Equalization) was consulted pursuant to BPC sections 26067(b)(1) and 26068(a). The Department met the statutory consultation requirements through a series of meetings, conference calls, and consistent communication with the required agencies throughout the development of these proposed emergency regulations.

### **“A” and “M” License Designations**

In this readoption of emergency regulations, the Department, along with the Bureau of Cannabis Control and the Department of Public Health, propose to modify the restriction on adult-use (“A”) and medicinal (“M”) licenses. Except during a brief transition period in which licensees could conduct A or M business with either license type, current emergency regulations require the A and M markets to be kept separate. As a result, once the transition period ended, licensees had to obtain both an A and an M license and pay twice the license and application fees for the

same premises if they wanted to transact both lines of business. These proposed emergency regulations would streamline commerce and reduce paperwork by requiring applicants to obtain a single license and pay one license fee in order to conduct A or M business in one location.

Since the release of the emergency regulations, the licensing agencies have received significant feedback from the public and the Cannabis Advisory Committee to remove the requirement to get both an A and M license on the same premises and allow A and M licensees to conduct business with any other license designation. Particularly in the context of cultivation, there is no difference in plants grown for the medicinal or adult use markets.

Based on feedback from stakeholders and the Cannabis Advisory Committee, the licensing authorities have further reviewed the MAUCRSA and have determined that it should be implemented in a manner that allows licensees to buy or sell cannabis or cannabis products to each other irrespective of their A or M designation. Business and Professions Code section 26053 states that all commercial cannabis activity shall be conducted between licensees. However, nothing in the MAUCRSA expressly states that A designated licensees may only do business with other A designated licensees or that M designated licensees may only do business with other M designated licensees. Further, Business and Professions Code section 26013 which provides direction to licensing authorities and states that regulations shall not “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.” The licensing authorities have determined that there is a high likelihood that requiring the A and M supply chains to remain separate will perpetuate, rather than reduce and eliminate, the illicit market for cannabis.

This is also consistent with the current regulatory structure which allows an A and M license for the same premises, and the re-adoption of the emergency regulations includes amendments to simplify the current practice of allowing an A and M license for the same premises. By eliminating any regulatory restriction on commercial activities between any other license designation, an applicant no longer needs to apply for both an A and M license for the same premises but only needs to apply for one. The designation remains to be consistent with the MAUCRSA and respectful of local jurisdictions that only allow medicinal cannabis. The Department hopes to increase participation in the legal cannabis market through these changes.

The Department proposes the adoption of Division 8, Chapter 1, sections 8000 to 8608, within Title 3 of the California Code of Regulations, to implement the Act. The Chapter will have seven Articles, each containing rules for different aspects of the licensing program.

The necessity regarding key sections is explained below.

### ***Article 1***

#### **Definitions**

The Department is adding section 8000 and subsections (a) through (af) to ensure language is used consistently throughout the regulations, to provide stakeholders clear understanding of the intent of specific words, and to provide uniform implementation of the statewide program. Many

of the definitions incorporated by the Department are the same as those listed in BPC Section. These are included in the proposed emergency regulations for ease of reference. The unique definitions were drafted based on outreach to and feedback from cultivators and others in the cannabis cultivation industry.

The definition of “canopy” in subsection (f) is restructured in proposed readoption text to provide additional clarity regarding identifiable boundaries, which may differ significantly between indoor and outdoor cultivation sites. Similarly, a definition for “light deprivation” is now included in subsection (q). Light deprivation is a commonly used industry technique to force plants to flower. The inclusion of a definition will provide for uniform implementation of the program throughout the state.

## ***Article 2***

### **Applications**

Additional requirements have been added to the temporary license applications (section 8100(b)(7)-(9)). The Department determined that the additional items will assist compliance and enforcement staff prepare for inspections.

### **Annual License Application Requirements**

The Department made changes to section 8102(j) as requested by the California Secretary of State’s Office. The new language now aligns with their process and ensures the Department captures the documentation needed to determine a business entity’s structure. In section 8102(n), the required bond form is now incorporated by reference. The form was not approved at the time of the emergency rulemaking in December 2017, but has since been adopted and approved by OAL.

### **Sovereign Immunity**

The Department included in the proposed emergency regulations a waiver of sovereign immunity for federally recognized tribes or other sovereign entities (section 8102(aa)(1)). This is necessary to ensure that tribes or other qualifying sovereign entities can participate in the regulated cannabis cultivation market in the same way as the general public.

### **Property and Cultivation Plan Requirements**

The proposed emergency regulations require two distinct diagrams be submitted to the Department; a property diagram (section 8105) and a cultivation plan which includes a detailed premises diagram (section 8106).

The property diagram requirements and detailed premises diagram are established to specify the statutory provisions of BPC section 26051.5(c) and 26060, which requires an applicant to provide a complete detailed diagram of the proposed premises with sufficient particularity to

enable ready determination of specific details, including boundaries, roads, water crossings, and points of water diversion.

The property diagram is necessary to have a scaled broad overview of the boundary of the property the premises is located on, the boundary of the premises within the property, roads and access points. The detailed premises diagram within the cultivation plan is more specific to get an accurate scaled diagram of identified areas on the premises such as canopy area(s), propagation area(s), etc.

While developing its previous medical regulations, the Department received input from stakeholders and the industry that one diagram was insufficient, resulting in the two diagrams found in the proposed emergency regulations. These sections are necessary to ensure that the Department has enough detail about the property and premises to review and verify that they are acceptable for licensing and to provide detailed information for compliance inspections. The diagrams will allow the Department to ensure compliance with the licensing requirements, which are being implemented to ensure public safety and environmental protection.

### **Applicant Track-and-Trace Training Requirement**

The proposed emergency regulations require documentation of the completion of state mandated track-and-trace training within ten (10) days of completion (section 8109(b)). Proof of completion is a prerequisite for licensed applicants to be granted access to the track-and-trace system. The system vendor, on behalf of the Department, will be providing the training to applicants, so it is imperative the applicant provide the Department with proof of completion to prevent unauthorized access to the track-and-trace system. These are added to clarify the statutory provisions in BPC section 26067 as they pertain to a licensee's mandatory use and the Department's administration of the track-and-trace system.

### **Timing of License Issuance**

Section 8110 of the proposed emergency regulations provides local jurisdictions ten (10) calendar days to respond to notification by the Department that an applicant has provided a license, permit, or other authorization from the local jurisdiction where the licensed premises is or will be located. The ten day timeframe was established based on consultation with local agencies and the other licensing authorities and consistent with other regulatory programs.

### **Applicants Convicted of a Criminal Offense**

Section 8113(c)(4) of the proposed emergency regulations includes language that the Department may consider as evidence of an applicant's rehabilitation evidence of any act committed subsequent to the act of offense under consideration that could be considered grounds for denial, suspension, or revocation of a commercial cannabis activity license. These proposed regulations are added to clarify the statutory provisions in BPC sections 26057 and 26059. Including this information in the regulations will provide consistency and standardize the Department's approach to evaluating such offenses and provide a transparent process to the applicant.

## ***Article 2 & Article 3***

### **Fees**

The proposed emergency regulations cover application fees for each type of license (section 8101) as well as annual license fees due to the Department prior to the issuance or renewal of a license (section 8200).

The application fees and licensing fees are established in the proposed emergency regulations to specify the statutory provisions of BPC section 26180, which requires the Department to scale its fees. The Department used cannabis market assumptions from its pending Standardized Regulatory Impact Assessment (SRIA) to determine the application fee and license fee for each type of license necessary to cover the costs of the program. Because the Department's SRIA is still being finalized in advance of the regular rulemaking process, these fees are subject to change. The Department anticipates reevaluating its fees regularly as the number of licensees changes and the program's budget needs adjusting.

### **General License Requirements**

The Department is removing section 8102(f) due to feedback from the public and the Cannabis Advisory Committee that licensees should not have to get two licenses to participate in the adult-use and medicinal cannabis markets. Along with other amendments, licensees may do business with one another regardless of A or M designation and it will no longer be necessary for a licensee to hold both licenses.

## ***Article 3***

### **License Types**

References to the specific cultivation license types the Department is responsible for issuing are listed and referenced in proposed sections 8100, 8200, and 8201. Specifically, section 8201, subsections (a) through (d), define specialty cottage, specialty, small, and medium license types by canopy size and cultivation method (indoor, outdoor, mixed-light) and subsection (e) defines the nursery license type. Subsections (a) through (e) are consistent with BPC section 26050(a).

Section 8201 describes all license types, including mixed-light types, which are tiered (Tier 1 and Tier 2) based on the definitions found in section 8000 (Definitions) of the proposed emergency regulations. This is necessary to ensure license types accurately encompass current industry practices and provide an equitable structure for tiering the license fees.

Section 8201, subsection (f) defines the processor license, which was created by the Department pursuant to the Department's authority in BPC section 26012(b). This addition was based on industry feedback that some cultivators send untrimmed, uncured, or unpackaged cannabis to locations off-site for processing (i.e., not where the product is grown). Some local ordinances may require processing activities to occur away from cultivation areas. The creation of the processor license is meant to allow a business to be licensed solely for processing cannabis and

provides the industry with an additional type of license that is consistent with current industry practices. Also, processing does not meet the definition of manufacturing and so would not fall under a manufacturer's license.

### **Sample Collection**

Section 8210 of the proposed emergency regulations provides the Bureau of Cannabis Control (bureau), the agency responsible for licensing testing laboratories, the authority to collect samples for testing of product in the hands of a distributor that may still be owned by a cultivator. The bureau determined this is necessary to enforce the provisions of the testing-laboratory regulations and ensure licensed testing laboratories are reporting accurate results. If a cultivator still holds title to the harvest batch when possession is transferred to a distributor, the cultivator, by sending the cannabis to the distributor, will be deemed by the Department as assenting to the seizure of samples for use by the bureau.

### **Requirements for Weighing Devices and Weighmasters**

The Department needed to allow a way for weighing devices to be registered, tested, and sealed in cities that are located in counties that do not engage in cannabis activity. The proposed language gives licensees the option to have the Department perform the duties of the county sealer in those circumstances for a set fee.

### **Commercial Cannabis Activity Between Licensees**

The transition period that would have allowed licensees to conduct commercial cannabis activities with any other licensee, regardless of the A or M designation of the license until July 1, 2018 is removed in the proposed readoption language. Section 8214 would now state that licensees can conduct business with other licensees regardless of A or M designation and have no expiration on this allowance. This will benefit cultivators as there is no difference in methods or techniques used to cultivate between the A or M designation and simplify the application process so that only one license is issued to a single premises.

## ***Article 4***

### **Environmental Protection Measures**

Sections 8304 through 8307 of the proposed emergency regulations requires all licensees to comply with environmental protection measures determined by the Department to diminish potential risks identified in the Department's Literature Review on the Impacts of Cannabis Cultivation. These measures include shielding of outdoor security lighting, halting all activity if human remains are discovered, setting restrictions on the use of generators, requiring licensees to follow all existing laws and regulations related to pesticides, and follow all pesticide application and storage protocols for legal products not required to be registered with the Department of Pesticide Regulation. These sections are necessary to clarify BPC section 26060 and provide specific requirements to licensees that the Department determined was necessary to fulfill its obligation to protect the environment from potential risks of activities conducted by the licensee.



## ***Article 5***

### **Track-and-Trace System**

Sections 8402 and 8403 outline licensees' requirements for using the track-and-trace system and the requirements for the use and application of the Department-issued track-and-trace system unique identifier (UID) for each lot of immature cannabis plants and for each individual mature cannabis plant. The track-and-trace system is designed to record the movement of cannabis plants on the licensed premises and monitor commercial cannabis activity. These proposed regulations are added to clarify the statutory provisions in BPC section 26067 as they pertain to a licensee's mandatory use of the track-and-trace system and unique identifiers.

### **User Requirements for the Track-and-Trace System**

Section 8404 of the proposed emergency regulations provides specific track-and-trace system user requirements. These proposed regulations are added to clarify the statutory provisions in BPC section 26067 as they pertain to a licensee's mandatory use of the track-and-trace system. The system will provide notifications to users and the users must adhere to the timeframes in those notifications. Notifications include, but are not limited to, administrative holds of cannabis and cannabis products and rejected shipping manifests or transfers. Traceability of unique track-and-trace users and adherence to the system requirements are critically important to ensuring the integrity of data and reliability of the mandated system.

## ***Article 6***

### **Inspections, Investigations, and Audits**

Sections 8500 and 8501 of the proposed emergency regulations provide the Department with the authority and discretion to inspect, investigate, or audit the books, records, accounts, inventory, and on-site operations specific to an applicant or licensee during standard business hours (i.e., 8:00am – 5:00pm (Pacific Standard time) or as mutually agreed upon by the Department and licensee. It prohibits a licensee, licensee's agent, or employees from interfering, obstructing, or impeding an inspection, investigation, or audit. Upon completion of an inspection, investigation, or audit, applicants and licensees will be notified of any violations and/or action the Department is taking. These proposed emergency regulations are added to clarify the statutory authority provided in BPC section 26015 and 26160. Permitted access to licensed premises and the ability to conduct field activities freely, without obstruction or impediment, is fundamental to the Department's ability to effectively monitor licensed cultivators.

## ***Article 7***

### **Enforcement**

Section 8601 of the proposed emergency regulations outlines the categories—minor, moderate, and serious—and related fine amounts for specific violations of the statute and regulations. These regulations were developed based on fine or penalty assessment models currently in use by the Department and are intended to communicate to the licensee the specific statutory and regulatory sections subject to violation, the violation category, and fine or penalty assessment.

The fines the Department proposes have established ranges with minimum and maximum amounts based upon the violation category (i.e., minor, moderate or serious). Fine amounts were set to be commensurate with the potential impact of the violation on the environment, the public, and the Department's ability to effectively administer the program. It is the Department's intent to be consistent and transparent in its application of administrative remedies associated with violations of the statute and regulations.

Sections 8602 through 8608 provide authority for the Department to issue violations and outline hearing and appeal processes. The proposed regulations relating to the licensee's right to appeal and the process for filing an appeal; the Department's procedure and timeframe for scheduling and notifying a licensee of an informal administrative hearing in response to his or her appeal; and the conduct of an informal administrative hearing were added because they were not specified in the statutory provisions in BPC section 26031. Therefore, the proposed emergency regulations are needed to establish a process and procedures for timely and effective adjudication of licensee's appeal of a Notice of Violation and/or an order of administrative hold. It is the Department's intent to be consistent and transparent in its application of administrative remedies associated with violations of the statutes and regulations.