

**BUREAU OF CANNABIS CONTROL  
FINDING OF EMERGENCY**

**MEDICINAL AND ADULT-USE CANNABIS  
REGULATION**

The Bureau of Cannabis Control (Bureau) finds that pursuant to Section 26013(b)(3) of the Business and Professions Code, the readoption of emergency regulations is deemed an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare.

The Bureau finds that an emergency continues to exist and the emergency regulations, California Code of Regulations, title 16, sections 5000 – 5814, effective December 7, 2017, must be readopted for the immediate preservation of the public peace, health, safety, or general welfare, within the meaning of Government Code section 11346.1.

Government Code section 11346.1(a)(2) requires that at least five working days prior to submission of the proposed emergency action to the Office of Administrative Law, the adopting agency provide a notice of the proposed emergency action to every person who has filed a request for notice of regulatory action with the agency. After submission of the proposed emergency to the Office of Administrative Law, the Office of Administrative Law shall allow interested persons five calendar days to submit comments on the proposed emergency regulations as set forth in Government Code section 11349.6.

**BACKGROUND**

The Medical Cannabis Regulation and Safety Act (MCRSA) was established through a series of bills passed by the California State Legislature in 2015 and 2016. (Bus. & Prof. Code, §19300 et seq.) The MCRSA established the Bureau (known in that legislation as the Bureau of Medical Cannabis Regulation) under the California Department of Consumer Affairs and created California’s first framework for the licensing, regulation, and enforcement of commercial medicinal cannabis activity.

The Control, Regulate and Tax Adult Use of Marijuana Act (AUMA) was established with the passage of Proposition 64, a voter initiative, in November 2016. The AUMA legalized the nonmedicinal adult use of cannabis; established California’s framework for the licensing, regulation, and enforcement of commercial nonmedicinal cannabis activity; and set a date of January 1, 2018, for the Bureau to start issuing licenses.

In June 2017, the California State Legislature passed a budget trailer bill, Senate Bill 94, that integrated MCRSA with AUMA and created the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA). (Bus. & Prof. Code, §26000 et seq.) Under MAUCRSA, a single regulatory system will govern the cannabis industry (both medicinal and adult-use) in California. Under MAUCRSA, the Bureau is charged with the licensing, regulation, and enforcement of the following types of commercial cannabis businesses: distributors, retailers, microbusinesses, temporary cannabis events, and testing laboratories, MAUCRSA provides that the Bureau must begin issuing licenses on January 1, 2018.

On January 1, 2018, the Bureau began issuing licenses for medicinal and adult-use cannabis activities relating to retail, distribution, microbusiness, testing laboratories, and cannabis events. These licensed commercial cannabis businesses are in operation under the emergency regulations adopted on December 7, 2017. The regulations are imperative to maintain the continued commercial cannabis market within a legal framework that reduces the illegal market for cannabis, and protects health, safety, and general welfare of the public.

Business and Professions Code section 26013, subdivision (b), authorizes the Bureau to promulgate regulations, and finds that the readoption of emergency regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare.

The Bureau has amended sections of the proposed emergency regulations to correct grammatical, punctuation, and typographical errors as well as to improve clarity. The changes for this readoption are substantially equivalent to the previously adopted regulations.

Pursuant to California Code of Regulations, title 1, section 52(c), the Bureau is incorporating by reference the documents listed under the “Incorporation by Reference” section and the “Technical, Theoretical, and/or Empirical Study, Reports, or Documents” section of the Finding of Emergency in OAL File No. 2017-1127-05.

## **DILIGENT ADOPTION OF PERMANENT REGULATIONS**

The Bureau has made substantial progress and proceeded with diligence to comply with Government Code section 11346.1, subdivision (e). The Bureau has undertaken the following actions since the emergency regulations were initially noticed in November 2017:

- Convened the Cannabis Advisory Committee, pursuant to Business and Professions Code section 26014, to advise the licensing authorities on the development of standards and regulations.
- Held a Cannabis Advisory Committee meeting in Sacramento, on January 18, 2018, resulting in part, in establishing ten subcommittees with subject matter expert committee members, to develop standards and rules for the Bureau’s permanent regulations.
- Published a survey for the public to provide input on the ten subcommittee subjects related to the development of permanent regulations, including, licensing applications, retailers, distributors, microbusiness, cultivation, public health and youth, social equity, manufacturers, enforcement, and testing laboratories. The Bureau received over 340 responses from the public.
- Held Cannabis Advisory Subcommittee meetings in Sacramento, on February 13, 2018, with subcommittees on licensing applications, retailers, distributors, microbusinesses, cultivation, public health and youth, social equity, manufacturers, enforcement, and testing laboratories, to develop formal recommendations for regulatory change on these subject matters.

- Held Cannabis Advisory Subcommittee meetings in Sacramento, on March 1, 2018, with subcommittees on licensing applications, retailers, distributors, microbusinesses, cultivation, public health and youth, social equity, manufacturers, and enforcement, to continue development of formal recommendations for regulatory change on these subject matters.
- Held a Cannabis Advisory Committee meeting in Los Angeles, on March 15, 2018, voting on formal recommendations for change to the permanent regulations, as developed by the subcommittees on February 13, 2018, and March 1, 2018. The Cannabis Advisory Committee voted on 37 recommendations, and passed 34 of those for regulatory change. Thirty-one recommendations were tabled for the May 17, 2018 Cannabis Advisory Committee meeting.
- Held a Cannabis Advisory Committee meeting in Oakland, on May 17, 2018, with additional adoption of formal recommendations for regulatory change.
- Received and reviewed thousands of emails from the public providing feedback and comments on the emergency regulations, and recommended changes to the permanent regulations.
- Held outreach workshops in multiple cities across the state.

## **AUTHORITY AND REFERENCE**

Business and Professions Code section 26013 authorizes the Bureau to adopt these proposed regulations. The proposed regulations implement, interpret, and make specific the MAUCRSA at Business and Professions Code section 26000 et seq.

## **INFORMATIVE DIGEST/ POLICY STATEMENT OVERVIEW**

This rulemaking action clarifies and makes specific licensing and enforcement criteria for commercial cannabis businesses, including: distributors, retailers, microbusinesses, temporary cannabis events, and testing laboratories. These proposed regulations would inform the applicants for licensure of the applicable meaning of key statutory terms; identify the documents and supplemental information required in an application; and provide specific clarification of terms, prohibitions, or conditions for compliance with MAUCRSA for their particular license type. Chapter 1 of these proposed regulations contains general provisions that apply to all license types, entitled All Bureau Licensees. Chapter 2 applies to distributors, Chapter 3 applies to retailers, Chapter 4 applies to microbusinesses, Chapter 5 applies to cannabis events, and Chapter 6 applies to testing laboratories. Lastly, Chapter 7 contains the enforcement provisions.

The proposed regulations are necessary to implement the MAUCRSA and are based on extensive research and outreach by the Bureau. This included: guidance provided from subject matter experts including the University of California Davis Agricultural Issues Center and the California Department of Pesticide Regulation; scientific resources; public comments regarding the Bureau's proposed Medical Cannabis Regulations; federal guidance related to cannabis activity; and information from other states who have legalized cannabis activity such as Oregon, Colorado,

Washington, Alaska, and Nevada. Based on all of the research conducted and information received, the Bureau has determined that the specific provisions of the proposed regulations are necessary to effectively implement the MAUCRSA.

### **License Designations – “A” and “M” Commercial Cannabis Activity**

In this readoption of emergency regulations, the Bureau, along with the Departments of Food and Agriculture and 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, 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.

While the MAUCRSA contains a number of requirements for commercial cannabis activity, only a small number of differences exist between A and M designated licenses – differences that arise only at the customer point of sale. The A or M designation does not otherwise impact the cannabis cultivation or supply chain. For instance, a retailer must have a license with an M designation to sell cannabis goods to an individual between 18 and 21 years of age who has a physician’s recommendation. (Bus. & Prof. Code, § 26140, subd. (a).) Similarly, in order to sell cannabis products of a particular per-package THC limit, a retailer must have an M-license. (Tit. 17, CCR § 40306.) Indeed, all of the differences between A and M designated licenses relate only to the retail sale of cannabis goods to adult-use customers versus medicinal customers.

### **History of the Separate Adult-Use and Medicinal Licenses**

Initially, the licensing authorities determined that during a transitional period from January 1, 2018 through June 30, 2018 it was necessary to allow A and M designated licensees to conduct business with each other irrespective of the designation because the adult-use market was new and there would be no place to obtain cannabis goods except for from the existing medicinal market. Following the transitional period, the licensing authorities had prescribed the requirement that A designated licensees could only do business with other A designated licensees and M designated licensees could only do business with other M designated licensees. For instance, a cultivator with an M license could only sell to a retailer who also possessed an M license.

Since noticing the emergency regulations, the licensing authorities have had feedback from licensees, potential licensees, and the Cannabis Advisory Committee that the transition period should be extended, or the provision allowing licensees to do business with other licensees regardless of the A or M designation should be made permanent. Licensees have expressed concerns that if the supply chains are separate for A and M either supply chain could end up with a shortage or an excess of cannabis goods. In either scenario, licensees and customers may be encouraged to turn to the illicit market to either divert excess cannabis goods or to purchase cannabis goods.

Of note, since the commercial cannabis market began on January 1, 2018, the licensing authorities have not been made aware of any public health or safety threat that has been created during the transitional period as a result of allowing commercial cannabis activity between the market designations. Additionally, requiring two separate licenses for the same activity on the same premises means that licensing authorities must require two applications as well as duplicates of other items such as the bond required by Business and Professions Code section 26051.5 (a)(10). This inefficient duplication increases costs for the licensing authorities and the licensees. Further, the number of licensed cannabis businesses is still relatively low when compared to the number of businesses in operation before January 1, 2018. The reasons for this are varied, but a substantial aspect is the lack of locally-available licenses as many jurisdictions are still developing cannabis programs.

### *Basis for the Modified Regulations*

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. Licensees that are unable to acquire cannabis goods or sell their cannabis goods because of under saturation or over saturation of cannabis goods within their supply chain would be placed in a position where the requirement of complying with a separate supply chain for A and M designated cannabis goods is so onerous that continuing to operate under their cannabis license is not worthy of being carried out in practice by them.

Amending the current regulation to allow for licensing authorities to issue licenses with an A and M, and allowing licensees to conduct business with other licensees regardless of the A and M designation is necessary to avoid increased costs due to the duplication of applications and allows licensees the ability to procure and sell product based on the commercial cannabis market’s demands. This amendment is consistent with Business and Professions Code section 26050, subdivision (b), which requires licensing authorities to affix an A or M on each license. Nothing in that section prohibits licensing authorities from affixing both designations, and indeed it expressly provides that, with limited exceptions stated in statute, “the requirements for A-licenses and M-licenses shall be the same.” While licensing authorities do not have discretion to require testing laboratories to have separate A and M licenses, the entities are exercising their discretion to permit the holders of other license types to fill out one application, pay one license fee, and obtain one license rather than insisting on the formality of two licenses, particularly when there are virtually no distinctions between A and M licenses identified by statute. Where MAUCRSA or local ordinances require such a distinction to be made, the Bureau will require an M or A designation, as appropriate.

## Chapter 1: All Bureau Licensees

The Bureau was established to create a comprehensive and coherent regulatory framework for an established industry that has not been regulated by the State. While MAUCRSA provides guidance on the larger macro issues, much of the implementation specifics and clarification of terms were left to the Bureau. These proposed regulations would help applicants and licensees better understand: (1) the applicable meaning of key statutory and other terms related to the Bureau's licensing program; (2) what documents and information are required in an application; and (3) specific clarification of prohibitions, requirements, or conditions for compliance with MAUCRSA.

### *Article 1*

Article 1 of the proposed regulations would make clear the applicable meaning of key statutory terms and other terms used within the proposed regulations. These terms include those relevant to the requirements of licensees, such as "cannabis waste," "limited-access area," "medical cannabis patient," and "retail area." In subsection (e), the word premise has been replaced by the word premises for consistency.

### *Article 2*

Article 2 of the proposed regulations would clarify what information and documents are required to complete an application for all license types. This information would include contact information, social security or individual tax payer identification number, the location of the proposed business, and the type of license requested. Within MAUCRSA, the Legislature recognized the current medical cannabis goods marketplace and provided for the issuance of temporary licenses that would allow an applicant, who has been approved by the local jurisdiction to conduct commercial cannabis activity, to operate while they gather the required items for a complete application and while their application is reviewed by the Bureau. The proposed regulations would further explain, specifically, what would be required to demonstrate the pre-conditions set out in MAUCRSA for priority review.

The MAUCRSA expressly requires an applicant to provide certain information to the Bureau for processing, including a valid seller's permit issued by the California Department of Tax and Fee Administration, proof of property owner approval for commercial cannabis activity, proof of surety bond, proof of a labor peace agreement if applicable, and fingerprint submission to the Department of Justice. The proposed regulations would further specify what must be submitted to the Bureau related to these items as well as what additional information is required. The proposed regulations would specify that if an applicant submits a license, permit, or other authorization from a local jurisdiction where the premises will be located, then the Bureau will notify the contact person from the local jurisdiction and if the local jurisdiction does not respond within 10 calendar days, the Bureau may approve the application.

The proposed regulations would clarify that applicants shall have, at a minimum, one individual that meets the definition of "owner" under MAUCRSA and would clarify what a "financial interest" in a commercial cannabis business means. The proposed regulations would also clarify that certain individuals such as persons employed by the State of California are prohibited from holding a license when the duties of their employment have to do with the enforcement of

MAUCRSA 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 goods. The proposed regulations would also prohibit persons in district attorney's offices and law enforcement agencies from holding a license.

The proposed regulations would clarify what the premises diagram must show. The proposed regulations would clarify what is required to demonstrate that a landowner has approved use of the premises for commercial cannabis activity. The regulations would also specify the amount of the bond that applicants must have to cover the cost incurred for the destruction of cannabis goods necessitated by a violation of MAUCRSA or the regulations adopted thereunder. The proposed regulations would also specify that applicants or licensees that fall within the scope of sovereign immunity that may be asserted by a federally recognized tribe or other sovereign entity must agree to a limited waiver of sovereign immunity.

The proposed regulations would clarify that applicants must provide proof that their premises is exempt from or in compliance with the California Environmental Quality Act (CEQA). The proposed regulations would also clarify that if an applicant does not have evidence of exemption from or compliance with CEQA that the applicant will be responsible for preparing an environmental document in compliance with CEQA that can be approved or certified by the Bureau.

The proposed regulations would specify that the Bureau may request additional information from the applicant so that the Bureau will have all the necessary information to appropriately evaluate the application for licensure. The proposed regulations would clarify that incomplete applications are abandoned after a specified length of time and that applications may be withdrawn before the Bureau issues or denies a license.

Article 2 is necessary to identify the specific information necessary on an application for licensure, which will allow the Bureau to properly determine whether the applicant and proposed premises should be licensed. This includes basic identifying information for the business and its owners, as well as financial information to clearly identify who is involved with the business. This will allow the Bureau to determine the persons responsible for activity conducted under the license and to ensure that the persons with an interest in the license meet all statutory and regulatory requirements. Documentation demonstrating compliance with statutory requirements is required so that the Bureau can confirm these requirements are met by the applicant.

#### Proposed section 5001

Under Business and Professions Code section 26053, all commercial cannabis activity shall be conducted between licensees; which means that without a state issued license a commercial cannabis business would be unable to do business with other commercial cannabis businesses. In recognizing that many cannabis businesses were already in operation for medicinal cannabis prior to January 1, 2018, the legislature created a temporary license with fewer requirements than an annual license so that licensing authorities could quickly process an application thereby allowing the businesses in operation to continue operations or allowing them to shut down for a very brief time while the application was processed. Business and Professions Code section 26050.1 provides that until January 1, 2019 a licensing authority may issue a temporary license if an applicant

submits the following: 1) a written request to the licensing authority in a manner prescribed by the licensing authority; 2) a copy of a valid license, permit, or other authorization, issued by a local jurisdiction, that enables the applicant to conduct commercial cannabis activity at the location requested for the temporary license; and 3) the temporary license application fee, if any, required by the licensing authority.

The purpose of this proposed section is to prescribe the manner in which a written request for a temporary license is submitted to the Bureau. The proposed section would benefit the public by providing them with clear direction on how to apply for a license from the Bureau. Further this proposed section would benefit the public by requiring a limited number of items from applicants, the Bureau would be able to review these applications much faster than annual applications and would be able to quickly approve businesses that are currently in operation so that they do not have to shut their operations down while waiting for a license from the Bureau. This proposed section would also benefit the public at large by requiring that applicants provide enough documentation regarding their operations with their application for the Bureau to determine that they are doing so in a manner that is consistent with preserving the health and safety of the public.

Proposed subsection (a) would clarify that applications for a temporary license may be completed and submitted online through the Bureau's website or by delivering a printed copy to the Bureau's office(s). This section is necessary to clarify where and how an application may be submitted to the Bureau. Permitting online submission provides flexibility for the applicant to submit the application from anywhere in the State. The State of California is very large and requiring an applicant to physically turn in hard copies in person in Sacramento would be tremendously burdensome on the applicant and the burgeoning industry. Permitting applicants to submit electronically also helps the Bureau process the applications in an effectively and timely fashion.

Proposed subsection (b) would specify that applicants that wish to apply online must first register for a user account by doing the following: 1) creating a user name, password, and security question and answer; 2) provide an email address; and 3) provide the owner's first and last name, primary phone number, social security number or individual taxpayer identification number, date, and mailing address. These items are necessary to identify the applicant and to create the person's account to be used for online submissions.

Proposed subsection (c) would clarify that an application must be completed by an owner and that an application must be submitted for each temporary license applied for. This proposed section is necessary to clarify the statutory requirements that an applicant be an owner (Bus. & Prof. Code § 26001(c)) and obtain a separate license for each location where it engages in commercial cannabis activity (Bus. & Prof. Code § 26053(d)). Repeating the statutory requirements here is necessary for clarity and benefits applicants by placing the requirements in one section in the regulations rather than spread out in various statutory sections.

Proposed subsections (c)(1)-(c)(4) would specify that applicants provide the legal business name of the applicant, the email address of the applicant's business and a telephone number for the premises, the business' federal employer identification number, and a description of the business organizational structure. These items are necessary to identify the applicant and the applicant's business. These items are also necessary for verifying that the person listed on the local license, permit, or other authorization submitted with the application is the same as the person applying for



the license. This information is also beneficial for verifying with local jurisdictions that applicants are in compliance with the local jurisdictions ordinances and regulations.

Proposed subsection (c)(5) would require the applicant to list the license type. This information is necessary to issue the applicant the correct license and to ensure that the application contains everything necessary for that license type.

Proposed subsection(c)(6) would require the applicant to identify the commercial cannabis activity license that the applicant is applying for, and whether the applicant is requesting to conduct medicinal, adult-use, or both. The proposed section would restate the provision in Business and Professions Code section 26050(b) which states that testing laboratories are not required to bear a designation for adult-use or medicinal. This information is necessary so that the Bureau knows what license to issue. The ability to have an adult-use designation, a medicinal designation, or both is necessary for the reasons discussed above under the section entitled “License Designations – “A” and “M” Commercial Cannabis Activity.”

Proposed subsection (c)(7) would require an applicant to provide contact information for the applicant’s designated primary contact person including the name, title, telephone number, and email address if applicable. This information is necessary so that the Bureau knows who to contact regarding questions or issues with an application or license.

Proposed subsection (c)(8) would require that each owner provide the owner’s name, title, percentage of ownership, mailing address, telephone number, and email address if applicable. This information is necessary to identify the owners of a business. MAUCRSA requires that the owners of a commercial cannabis business be qualified for a license. Further, under Business and Professions Code section 26053(b), a person that holds a state testing laboratory license is prohibited from licensure for any other activity. The Bureau must be able to identify owners to ensure that an owner is not issued a testing laboratory license in addition to any other type of license.

Proposed subsection (c)(9) would require the applicant to provide the physical address of the premises to be licensed. This is necessary because under MAUCRSA a license may only be issued if both the applicant and the premises qualify for licensure. Further the Bureau must know where the premises is located in order to do inspections and to verify with the local jurisdiction that the applicant is authorized to engage in commercial cannabis activity at the premises.

Proposed subsection (c)(10) would require the applicant to provide evidence that the applicant has the legal right to occupy and use the proposed location. Business and Professions Code section 26051.5(a)(3) requires this information for an annual license. The Bureau determined that it was necessary to include this information with the temporary application to ensure that the landowner is aware that commercial cannabis activity is being conducted at the location and that the landowner approves of such activity. This reduces the risk of a landowner later stating that an applicant does not have the right to engage in commercial cannabis activity and evicting the licensee which could lead a licensee to divert cannabis goods to the unlicensed market.

Proposed subsection (c)(11) would require an applicant to submit a premises diagram with their application. This is a requirement for the annual license under Business and Professions Code

section 26051.5(c), however the Bureau determined it was also necessary for the temporary application. The diagram is necessary because the Bureau must know the layout of a premises in order to effectively carry out its duties under the Act. Requiring a premises diagram also allows applicants to receive feedback on their layout from the Bureau and adjust their layout prior to applying for the annual license.

Proposed subsection (c)(12) requires a copy of a valid license, permit, or other authorization issued by a local jurisdiction, that enables the applicant to conduct commercial cannabis activity at the location requested for the temporary license. Further, this proposed subsection would specify that “other authorization” means at a minimum a written statement or reference that clearly indicates the local jurisdiction intended to grant permission for the commercial cannabis activity or to the person to conduct commercial cannabis activity at the premises. Lastly, the proposed subsection would specify that the Bureau shall contact the applicable jurisdiction to confirm the validity of the authorization and if the jurisdiction does not respond within 10 calendar days, the Bureau shall consider the authorization valid. This proposed subsection is necessary to comport with the statutory requirement that a valid license, permit or other authorization be submitted for a temporary application and define what “other authorization” is as this is not defined in the Act. Lastly, the 10 day requirement is necessary because the Bureau determined 10 days was an adequate amount of time for a local jurisdiction to receive and confirm or deny an applicant’s authorization while still allowing the Bureau to complete the processing of the application in a short time frame.

Proposed subsection (c)(13) requires applicants to attest under the penalty of perjury that the information contained within and submitted with the application is complete, true, and accurate and that they understand that a misrepresentation of fact is cause for rejection of the application, denial of the license, or revocation of a license issued. This section is necessary to conform with requirements for the annual license. This also provides applicants with notice that any misrepresentations may be used against them for disciplinary purposes.

Proposed subsections (d)-(g) are restatements of the provisions contained in Business and Professions Code section 26050.1 and are included here for clarity.

#### Proposed section 5002

In order to obtain a license an application must first be submitted to the Bureau. The purpose of this section is to specify what information must be provided by the applicant in the application. Business and Professions Code section 26051.5 enumerates specific, yet limited information an applicant is required to include in the application. Additionally, the Act places a limit on the licenses an owner of a testing laboratory may have. Therefore, the proposed regulation includes information that will be necessary in order for the Bureau to determine that an individual or entity is not obtaining licenses that the applicant is not eligible to have.

Proposed subsection (a) is necessary for application processing. Permitting online submission provides flexibility for the applicant to submit the application from anywhere in the State. The State of California is very large and requiring an applicant to physically turn in hard copies in person in Sacramento would be tremendously burdensome on the applicant and the burgeoning

industry. Permitting applicants to submit electronically also helps the Bureau process the applications in an effectively and timely fashion.

Proposed subsection (b) would specify that applicants that wish to apply online must first register for a user account by doing the following: 1) creating a user name, password, and security question and answer; 2) provide an email address; and 3) provide the owner's first and last name, primary phone number, social security number or individual taxpayer identification number, date, and mailing address. These items are necessary to identify the applicant and to create the person's account to be used for online submissions.

Proposed subsections (c)(1) through (c)(4) would specify that the applicant must provide the name of the applicant, the DBA of the applicant, the license type the applicant is applying for, and lastly must pay the application fee in proposed section 5014. These items are necessary to identify the applicant's legal business identity and the license that the applicant is requesting as well as to clarify that payment of the application fee is necessary at the time the application is submitted. The ability to have an adult-use designation, a medicinal designation, or both is necessary for the reasons discussed above under "License Designations – "A" and "M" Commercial Cannabis Activity."

Proposed subsections (c)(5) would allow an owner that is serving or has previously served in the military to disclose their service and receive expedited application processing if the owner can provide evidence of honorable discharge. This optional disclosure applies to all Department of Consumer Affairs boards and Bureaus, which includes the Bureau, through Business and Professions Code section 115.4 and is included here for clarity.

Proposed subsections (c)(6) through (c)(7) would require the applicant to the license types, license numbers, the date the license was issued, and which licensing authority issued the license for any licenses the applicant holds from the Bureau and all other state licensing authorities. The applicant would also be required to disclose whether the applicant has been denied a license or had one revoked or suspended by the Bureau or any other state cannabis licensing authority. These subsections are necessary to ensure that the granting of a license would not violate the provision in Business and Professions Code section 26053, subdivision (b) prohibiting a person that holds a state testing laboratory license from receiving any other type of cannabis license. It is also necessary for the Bureau to know if a license has ever been denied, revoked, or suspended as these could be grounds for denial of the application.

Proposed subsection (c)(8) would require the applicant to provide the physical address of the premises to be licensed and provide a document that confirms the physical address of the premises. This is necessary because under MAUCRSA a license may only be issued if both the applicant and the premises qualify for licensure. Further the Bureau must know where the premises is located in order to do inspections and to verify with the local jurisdiction that the applicant is authorized to engage in commercial cannabis activity at the premises. The documentation is necessary to verify that the address provided by an applicant is a legal and accurate address for the premises.

Proposed subsection (c)(9) through (c)(12) would require specific contact information for the cannabis business including the mailing address, the telephone number for the premises, the website address and email address, and the federal employer identification number. These items

are necessary to contact the premises. Further, they are necessary for monitoring the cannabis business once it is licensed to ensure the business is complying with laws and regulations.

Proposed subsection (c)(13) would require an applicant to provide contact information for the applicant's designated primary contact person including the name, title, telephone number, and email address if applicable. This information is necessary so that the Bureau knows who to contact regarding questions or issues with an application or license.

Proposed subsections (c)(14) through (c)(19) would require the applicant to provide the business organizational structure, the business-formation documents, a list of all fictitious business names the applicant is operating under, the certificate of qualification if the applicant is a foreign corporation, financial information, and, as required by Business and Professions Code section 26051.5, subdivision (d), a list of every individual who has a financial interest. This information is necessary to determine how the commercial cannabis business will be organized and to ensure that all owners as defined in proposed section 5003 and all financial interest holders in proposed section 5004 are identified. The Bureau has proposed an additional requirements in subsection(c)(15) to provide a copy of the trust document if the business is held in trust. This is necessary to properly identify the owners and perform the necessary background checks as required by the Act.

In order for the Bureau to conduct a thorough and effective evaluation of an applicant's submission, to ensure the applicant is a bona fide and qualified applicant under the law, the Bureau must receive specific information from the applicant. The information contained in proposed subsection (c)(20)(A) through (c)(20)(N) are necessary for the Bureau to accurately determine and verify the true identity of individual owners as defined in proposed section 5004.

Under Business and Professions Code sections 144; 26051.5, subsection (a)(1) the Bureau is required to request and conduct criminal history record checks on all applicants. The information contained in proposed subsection (c)(L)(i) – (vi) clarifies what information is needed by the Bureau in order to gather all pertinent criminal history information in order to properly conduct the statutorily mandated checks.

Proposed subsection (c)(21) would require the applicant to provide evidence that the applicant has the legal right to occupy and use the proposed location as required by Business and Professions Code section 26051.5(a)(3). This requirement is included here for clarity and is necessary so that applicants may have all the required materials for an application listed in one section.

Proposed subsection (c)(22) would require, pursuant to Business and Professions Code section 26051.5, subdivision (a)(3), that the applicant provide evidence that the proposed premises is in compliance with subdivision (b) of Section 26054, which requires that a premises shall not be within a 600-foot radius of a school providing instruction in kindergarten or any grades 1-12 or other enumerated facility for the care of children, unless the licensing authority or local jurisdiction specifies a different radius. This requirement is included here for clarity and so that applicants may have all the required materials for an application listed in one section.

Proposed subsection (c)(23) would require that an applicant with 20 or more employees attest that the applicant has entered into a labor peace agreement and will abide by the terms of the agreement

or, if they have not yet entered into such an agreement, provide a notarized statement that the applicant will enter into and abide by the terms of a labor peace agreement within 30 days of licensure. This subsection is necessary to fulfill the statutory requirements of Business and Professions Code section 26051.5(a)(5). This clarification is necessary because it highlights the importance of a labor peace agreement for applicants that have never dealt with labor issues. The Bureau now proposes to require an applicant to enter into a labor peace agreement within 30 days of licensure. This protects the employees of the applicant by ensuring that once licensed the licensee does not forgo or put off its responsibility to enter into such an agreement. The Bureau is no longer requiring a copy of the agreement as the statute requires an agreement but does not mandate the specific provisions that must be in the agreement; therefore a copy is unnecessary.

Proposed subsection (c)(24) would repeat the requirement of Business and Professions Code section 26051.5, subdivision (a)(6) that an applicant provide a valid seller's permit number or if it has not yet received one then indicate that the applicant is currently applying for the seller's permit. This requirement is included here and is necessary to provide clarity and so that applicants may have all the required materials for an application listed in one section.

Proposed subsection (c)(25) would require a premises diagram be submitted with the application pursuant to Business and Professions Code section 26051.5, subdivision (c). This is necessary because it is required under the act and also because without a detailed, thorough, and legible description of the proposed premises the Bureau is unable to ensure the proposed premises meets all statutory limitations and requirements for the proposed activity.

Proposed subsection (c)(26) would require proof of a bond. This is necessary because it is required by the Act under Business and Professions Code section 26051.5, subdivision (a)(10) and is repeated here for clarity and so that applicants may have all the required materials for an application listed in one section.

Proposed subsection (c)(27) would require that testing laboratory applicants provide the certificate(s) of accreditation that is required by proposed section 5702, which is also required under Business and Professions Code section 26100, subdivision (g), or the information required by proposed section 5703. These requirements are repeated in the application for clarity so that applicants may have all the required materials for an application listed in one section.

Business and Professions Code section 26055, subdivision (d) licensing authorities may not approve an application that would violate the provisions of any local ordinance or regulation adopted in accordance with Section 26200. Further, Business and Professions Code section 26055, subdivision (e), provides that an applicant may voluntarily provide proof of a license, permit, or other authorization from the local jurisdiction verifying that the applicant is in compliance with the local jurisdiction and an applicant that provides such proof shall be presumed in compliance unless the licensing authority is notified otherwise by the local jurisdiction. Proposed subsection (c)(28) clarifies the Bureau's process for notifying local jurisdictions of the application and provides that if the local jurisdiction does not respond within 10 calendar days, the Bureau shall consider the authorization valid. In order to encourage applicants to get licensed and comply with the Bureau's regulations and stay out of the illegal market, the Bureau must be able to process the applications quickly. Providing 10 calendar days was determined by the Bureau to be a sufficient amount of time for the local jurisdiction to review its records and respond and is not too long of a

time for the processing of the application to be delayed while waiting for a response from the local jurisdiction.

Proposed subsection (c)(29) would require that operating procedures for transportation, inventory, non-laboratory quality control, security, cannabis waste, and delivery must be submitted with the application. The purpose of proposed subsection (c)(29) is to clarify the requirements of Business and Professions Code section 26051.5, subdivision (b), which requires applicants to include with their application a detailed description of the applicant's operating procedures for cultivation, extraction and infusion methods, the transportation process, inventory procedures, quality control procedures, and security procedures as required by the licensing authority. The Bureau determined that it was necessary to include cannabis waste procedures here since the mishandling of waste could lead to diversion of unsafe cannabis or cannabis products entering the unregulated market. The Bureau has further determined that it is necessary to include delivery procedures due to the opportunity for diversion and potential risk to public safety while delivering cannabis in the community.

The statute does not specify which operating procedures are required for applicants of each license type and allows the licensing authority to decide. Additionally, the statute does not provide any guidance as to what specific information is required in the operating procedures. These subsections clarify the requirements of the statute by indicating that an applicant shall include the following: 1) the applicant's procedure for transportation of cannabis goods; 2) a description of the applicant's procedure for receiving shipments of inventory, storing inventory, maintaining records, and performing inventory reconciliation; 3) the procedures for preventing the deterioration of cannabis goods held by the applicant, ensuring that cannabis goods are properly packaged and labeled prior to retail sale, and for ensuring that a licensed testing laboratory samples and analyzes cannabis goods held by the applicant; 4) the procedure for allowing individuals access to the premises, a description of the video surveillance system including camera placement and procedures for the maintenance of the video surveillance system, how the applicant will ensure all access points to the premises will be secured including the use of security personnel, and a description of the alarm system; 5) the applicant's procedure for disposing of cannabis waste including whether the applicant will be using a local agency or waste hauler permitted by a local agency or self-hauling the waste to a solid waste facility, the applicant's procedure for composting cannabis waste on the premises if applicable, and how the applicant will ensure that all access to cannabis waste is restricted to authorized persons; and 6) the applicant's procedures for delivery including how orders will be processed, how verification of age and identity will be accomplished at the delivery address, vehicle information, and information regarding GPS location abilities.

The benefit of these subsections is added clarity and a decrease in the risk of confusion from applicants who are preparing license applications. From these subsections, an applicant will be able to determine which operating procedures must be included with their application as well as what specific information must be contained in those operating procedures. The requirement to include these procedures is necessary so that the Bureau can evaluate and determine whether the procedures comply with statute and regulation, as well as ensure public safety.

Proposed subsection (c)(30) would require that microbusiness applicants include a detailed description of the applicant's operating procedures required by this proposed section for each cannabis activity the applicant intends to engage in. This is necessary because microbusiness

applicants can engage in cultivation and manufacturing which are not activities that are regulated by the Bureau, therefore only these applicants would need to provide cultivation and/or extraction and infusion methods.

Proposed subsection (c)(31) would require that applicant's for a testing laboratory also provide the operating procedures required under proposed chapter 6 of this division. This requirement is repeated in the application for clarity so that applicants may have all the required materials for an application listed in one section.

Proposed subsection (c)(32) would require that applicant's provide a limited waiver of sovereign immunity if applicable as required under proposed section 5009. This requirement is repeated in the application for clarity so that applicants may have all the required materials for an application listed in one section.

Proposed subsection (c)(33) would require that applicants provide evidence of exemption from, or compliance with, the California Environmental Quality Act as required by proposed section 5010. This requirement is repeated in the application for clarity so that applicants may have all the required materials for an application listed in one section.

#### Proposed section 5003

Proposed section 5003 provides that an application must be submitted by an owner, defined under Business and Professions Code section 26001, subdivision (al), as including, a person with an aggregate ownership interest of 20 percent or more in the person applying for a license, the chief executive officer of a nonprofit or other entity, a member of the board of directors of a nonprofit, the trustee and all persons that have control of a commercial cannabis business in trust or the trust, or an individual who will be participating the direction, control, or management of the person applying for a license.

Proposed subsection (b) further clarifies who is considered an owner under the statutory definition, specifically establishing that an individual participating in the direction, control, or management of the person applying for a license can include a general partner of a commercial cannabis business organized as a partnership, a non-member manager or managing member of a commercial cannabis business organized as a limited liability company, an officer or director of a commercial cannabis business organized as a corporation, a trustee or person with control over the trust, or any individual that assumes responsibility for the licensee. Subsection (c) provides that an entity with a 20 percent or more aggregate ownership interest in the person applying for licensure must include all appropriate owners for that entity.

This section is necessary to clarify what types of individuals participate in the direction, control, or management of a business or corporate entity, so as to be included on an application for licensure. This information is essential in identifying the true and correct individuals that are owners of a commercial cannabis business. The true and correct identities must be provided because MAUCRSA requires licensing authorities to make a complete and thorough determination of a person's suitability for licensure, including consideration of an owner's history of convicted offenses that are substantially related to the qualifications, functions, or duties of the profession for which application is made, pursuant to Business and Professions Code section 26057. This is

to ensure that the Bureau is carrying out the statutory mandate for public protection as the highest priority, by licensing only qualified persons and ensuring that the persons do not have an interest in a testing laboratory as required by the Act.

#### Proposed section 5004

Proposed section 5004 is necessary to clarify what is a financial interest. Business and Professions Code section 26051.5, subdivision (a)(7) requires the applicant for a commercial cannabis license to provide any other information as required by the licensing authority. The regulation clarifies that a financial interest is an agreement to receive a portion of the profits of a commercial cannabis business, an investment into a commercial cannabis business, a loan provided to a commercial cannabis business, or any other equity interest in a commercial cannabis business. The Bureau has added proposed clarity language stating that an agreement to receive profits is a financial interest in the business as a person will be receiving money that is tied to the success of the business. The Bureau has received questions related to this issue and so believes including such language it will provide further guidance to applicants. The Bureau has also restated what interests are not financial interests contained in the Act for clarity.

Proposed subsection (b) provides what the license application shall include for a person with a financial interest in the applicant. Proposed subsection (c) clarifies that banks and other financial institutions that provide loans; individuals whose only financial interest is through an interest in a diversified mutual fund, blind trust, or similar interest; individuals whose only financial interest is a security interest, lien, or encumbrance on property used by the applicant; and individuals who hold a shares of stock less than 5% of the total shares in a publicly traded company, are not required be listed pursuant to financial interest in the applicant. The Bureau has determined that a person who holds stock in a publicly traded company that is less than 5% of the total shares is similar to a person who holds a security interest due to a lack of direct control over the entity. This 5% threshold is modeled after the Security Exchange Commission ownership reporting threshold. This is necessary to ensure that it is clear that lenders are not owners and therefore not required to apply for the license and submit to background checks.

#### Proposed section 5006

Proposed section 5006 is necessary to clarify that the premises must meet the requirements of the Act and the regulations and to clarify what specific information is required to be included on a premises diagram. Business and Professions Code section 26051.5 subdivision (c) requires that an applicant for licensure provide a complete detailed diagram of the proposed premises wherein the license privileges will be exercised, with sufficient particularity to enable ready determination of the bounds of the premises. The statute also requires that such a premises diagram includes all boundaries, dimensions, entrances and exits, interior partitions, walls, rooms, common or shared entryways, and a brief description of the principal activity.

Proposed subsection (a) clarifies for the applicant what the premises diagram will be used for in the application process to assist the applicant with understanding how the purpose of the diagram in the Bureau's review. Proposed subsections (a) and (b) include the statutory requirements, for purposes of clarification, while proposed subsections (c) and (d) require the premises diagram to identify specific areas of commercial cannabis activity, designation of limited-access areas, as well



as the location of all security cameras, with an assigned number to each camera for identification purposes. Subsection (c) also clarifies the specific types of commercial cannabis activity that must be identified, including, but not limited to, storage, batch sampling, loading or unloading of shipments, packaging and labeling, customer sales, loading for deliveries, extraction, growing, or processing.

Proposed subsections (e) and (f) require the premises diagram to be to scale, and drawn in black-and-white print only, without any highlighting. Proposed subsections (g) and (j) clarifies that a complete diagram also includes the entirety of a property and its uses, including residences with separate and distinct markings, even when the proposed premises consists of only a portion of that property. Proposed subsection (h) further provides that a property with two or more proposed premises must clearly show the designated entrances and walls under the exclusive control of the applicant for the premises as well as those for each additional premises, which is in accordance with Business and Professions Code section 26001, subdivision (ap), which requires each premises to be a contiguous area and occupied by only one licensee. Proposed subsection (i) clarifies that a microbusiness application that includes cultivation activities will have additional requirements, as required by statute, and further clarified in section 5501 of the regulations. Lastly, proposed subsection (j) would clarify that if a premises is located on only a portion of a property that also contains a residence, then the diagram must clearly show the designated buildings for the premises and the residence.

This section helps establish what is considered a complete and detailed premises diagram. A scaled, thorough, and legible diagram will allow the Bureau to appropriately, and within a reasonable timeframe, evaluate the application for compliance with the law. The information required in this section is needed to assist in clearly identifying with sufficient particularity, the boundaries and characteristics of the premises and land. Not only is this required by statute, but it will also allow the Bureau to ensure that the premises meets all legal requirements and that the licensee is the only one in control of the premises. In determining to propose the additional language, the Bureau considered the inquiries it receives and issues it has identified with submitted diagrams and provided further clarity. Highlighting and colored print on the premises diagram are not allowed as any highlighting or colored print often will not translate to secondary printed copies, so any nuances detailed in color or highlighting will be rendered useless. Black-and-white print will ensure that the diagram is usable if copied.

#### Proposed section 5008

Business and Professions Code section 26051.5(a)(10) requires that all applicants provide proof of a bond to cover the costs of destruction of medical cannabis or medical cannabis products if necessitated by a violation of licensing requirements. Additionally, Business and Professions Code section 26070(a)(2) specifically requires that distributor licensees be bonded at a minimum level established by the licensing authority. The Bureau developed a bond form which was approved by the California Department of Justice and can be located under Title 11, California Code of Regulations, Article 56, at section 118.1, thus, will now require use of the form.

This section is necessary to fulfill the statutory requirement that the Bureau establish a minimum level of bond. This section establishes the bond amount minimum of \$5,000. The Bureau looked at other states that had required a bond and found that it was difficult if not impossible for licensees

in other states to obtain a bond. The Bureau determined that \$5,000 was a high enough amount to cover destruction while still being low enough to be reasonably obtained by licensees.

#### Proposed section 5009

Proposed section 5009 provides that an applicant or licensee that may fall within the scope of sovereign immunity must waive any sovereign immunity defense. The sovereign immunity defense provides exemptions from certain state laws. This subsection is necessary to ensure that all licensees who engage in commercial cannabis activity are required to follow MAUCRSA and the regulations implementing it. This proposed section will provide for fair and efficient regulation in the cannabis industry, while allowing tribal governments the opportunity to participate in the legal regulated industry. The requirement that a new waiver accompany each license and renewal application will ensure that a valid waiver will be in place for the entire period of the license or renewal. The requirement for the applicant to demonstrate the waiver's signatory has the authority to enter into such an agreement is necessary to ensure the waiver is valid and binds the applicant or licensee to the terms and conditions listed therein. This subsection is necessary to ensure the waiver is a valid executed contract entered into by the tribal government and the Bureau. Proposed subsections (a)(2) – (a)(6) require the tribal sovereignty waiver to include language that clearly states all tribal entity applicants shall conduct all cannabis business activity in full compliance with all state laws and regulations, that the Bureau has access to all licensed areas, access to all records pertaining to commercial cannabis activity, and that all licensees may only sell product to other licensees and customers meeting the legal requirements to purchase cannabis goods. These subsections are necessary to ensure the Bureau has the ability to fully enforce all statutes and regulations related to the licensing of cannabis business activity and that all cannabis licensees are regulated with the same standards and expectations. Without this specific language, it may be unclear which regulations would be applicable to a tribal government creating business and enforcement uncertainty. Proposed subsection (7) clarifies the applicable body of substantive and procedural laws and which legal forum will be used to resolve disputes. Without this language in the waiver it is unclear which court or administrative tribunal is the appropriate forum for redress of claims, which could lead to confusion and delay. This language is necessary to clarify this complex intersection of state, federal, and sovereign immunity law and to avoid conflict of legal jurisdiction and choice of forum for dispute resolution. It also clarifies the applicable law, legal claims, and rights afforded the parties. This provision is necessary to ensure that all matters related to the license issued by the Bureau related to commercial cannabis activity in California will be governed by California law and litigated in California. Proposed subsection (b) specifies that the Bureau will not approve an application for a state license if approval would violate the provisions of any local ordinance or regulation, which is a restatement of the law, under Business and Professions Code section 26055, subdivision (d), and is included to provide clarity. Proposed subsection (c) requires the licensee to notify the Bureau when any material changes have been made to their business entity, their premises, or any other information supplied in their application. Without requiring a licensee to update the Bureau of material alterations of facts there is no assurance the changes are permitted within the statutory and regulatory framework. Without an affirmative duty placed on a licensee to notify the Bureau, a noncompliant change may continue for a significant amount of time before discovery. Placing an affirmative duty to notify ensures the Bureau is kept consistently aware of the shape, condition, and legality of the licensee and licensed premises. This requirement is applicable to other licensees as well; therefore, it is included here for clarity. Proposed subsection

(d) clearly states the consequences for statutory or regulatory non-compliance. This subsection is necessary to clarify non-compliance of any of these terms and conditions could lead to denial or discipline of a licensee. This subsection also clarifies that all licensees, tribal governments and non-tribal governments, are governed by the same standards and disciplinary guidelines.

### ***Article 3***

Article 3 of the proposed regulations would provide clarification of special conditions, terms, prohibitions, or requirements, set forth in MAUCRSA that apply to all license types. Specifically, the proposed regulations would clarify the annual license fee for each license type depending on the size of the business. The proposed regulations would also specify how the license fee can be paid. The proposed regulations would clarify the requirements for priority licensing. Additionally, the proposed regulations would clarify which offenses are substantially related to the qualifications, functions, or duties of the business for which licensure is sought and would clarify the criteria for the Bureau to consider in determining whether an applicant that has been sufficiently rehabilitated and is therefore suitable for licensure. The proposed regulations would also provide the specific criteria under which a license can be denied, how the Bureau will notify the applicant that the application was denied, and what the applicant must do to contest the denial.

The proposed regulations would clarify how the Bureau will evaluate whether an excessive concentration of licenses exists in the area of a proposed premises, during application review. The proposed regulations would clarify how a license is renewed and when a license is considered surrendered or cancelled. Additionally, the proposed regulations would specify when the Bureau must be notified of a change in the information previously provided to the Bureau, and when those changes require a new application or just notification to the Bureau. The regulations would clarify what happens to the license when the licensee dies or becomes unable to perform the duties associated with the license.

The proposed regulations specify that a licensed premises must not be within a 600-foot radius of a school providing instruction in kindergarten or any grades 1 through 12, day care center, or youth center that is in existence at the time the license is issued and under what circumstances an exemption may be allowed. The proposed regulations would also specify that a licensee cannot make a physical modification that materially or substantially alters the licensed premises from the premises diagram last filed with the Bureau and clarifies what material or substantial changes are. Further, the proposed regulations would specify that a licensee may not sublet a portion of the licensed premises.

In recognition of the medicinal cannabis businesses that are currently in operation, the proposed regulations would specify a transition period during which time licensees may engage in certain limited activities that are otherwise prohibited under the Bureau's regulations or the regulations developed by the State Department of Public Health. This conduct may be engaged in from January 1, 2018 and before July 1, 2018. During the transition period the following may occur: (1) retailers may sell cannabis goods held in their inventory at the time of licensure that are not in child-resistant packaging if they are placed into child-resistant packaging by the retailer at the time of sale; (2) non-edible cannabis products that do not meet the tetrahydrocannabinol (THC) limits per package set by the State Department of Public Health may be transported and sold; (3) an M-licensee may sell medicinal edible cannabis products that are 10 milligrams of THC per serving

regardless of the THC amount in the package; (4) cannabis goods that do not meet labeling requirements prescribed by the Act or the State Department of Public Health may be transported and sold if a sticker with the applicable warning under Business and Professions Code section 26120, subdivisions (c)(1)(A) or (c)(1)(B) is affixed to the cannabis goods prior to sale by a retailer; (5) cannabis goods that have not undergone laboratory testing may be transported and sold if a label stating that they have not been tested is affixed to each package containing the goods prior to sale by a retailer; (6) dried flower held in inventory by a retailer at the time of licensure may be packaged by the retailer into individual packages for sale; and (7) cannabis products held in inventory by a retailer that do not meet the requirements under Business and Professions code 26130 and 26131 and the State Department of Public Health's regulations for ingredients and appearance may be sold by the retailer. The Bureau has removed from this section the provision allowing licensees to conduct business with one another irrespective of license designation because the Bureau is proposing to allow this activity to continue beyond June 30, 2018; therefore, now addresses it in another section of the regulations.

The proposed regulations would provide that a licensee is responsible for the acts of an agent, officer, or other person acting for or employed by the licensee. The proposed regulations would specify that licensees shall not employ or retain persons under 21 years of age. The proposed regulations would clarify that all commercial cannabis activity must be conducted between licensees. The proposed regulations would specify inventory storage requirements and would also clarify what a significant discrepancy in inventory is. The proposed regulations would also specify when a licensee must notify the Bureau of criminal acts, civil judgements, revocation of a local license, permit, or other authorization, and theft or loss of cannabis goods.

The proposed regulations would specify which business records must be kept, how long they must be kept, and in what manner they must be kept. The proposed regulations would also specify what a licensee may do in case of a disaster such as a fire or flood.

Article 3 is necessary to ensure that the licensees understand requirements for licensure, responsibilities of licensure, and that the Bureau is informed when changes are made related to information contained in the application which impact whether the person or premises should be licensed.

#### Proposed sections 5014

Proposed section 5014 implement the Bureau's authority to collect fees in connection with its regulatory activities under Business and Professions Code section 26012, subsection (b). The fees adopted by the Bureau are based on a recommendation from the economists at the University of California Agricultural Resources Center (AIC), which considered:

- Administrative ease – The ease by which a fee could be administered was considered a factor in the evaluation of fee options. To reduce administrative costs that impact the ability of the Bureau to fully utilize revenue to cover program activities, the fees should not be overly burdensome for the Bureau. An efficient fee policy should have minimal administrative costs to the Bureau.

- Non-regressive, non-progressive – The inherent fairness of a fee was considered a factor in the evaluation of fee options. The variety of businesses suggests variety of fee ranges to absorb the impact of the fees.
- Reflective of administrative cost – The extent to which a fee policy reflects the Bureau’s costs associated with program workload was considered.

The license fees were determined to be necessary to account for the Bureau’s expected total operating costs, which also includes the General Fund loan that was used to establish and support the regulatory activities of the Bureau pursuant to former Business and Professions Code section 19351, and the cost of the licensee’s operation of the track and trace system. The license fees are scaled to the size of the business entity licensed as required by the Act, and are based on the costs of services, as well as the potential compensation for each license type. The proposed fees now take into account that licensees will not have to obtain separate licenses and pay separate fees when requesting an A-designation and an M-designation to conduct the same cannabis activity. The proposed fees also reflect additional operational costs identified since the emergency regulations were first adopted. The provisions related to fees are necessary to fund the operations of the Bureau and have been set based on the economic research and analysis of economists.

Subsections (b) and (e) indicate that a license fee must be paid by a licensee or applicant before a license is issued. This language is necessary to clarify when fees must be paid to the Bureau; license fees are condition precedent to license issuance. Subsection (f) provides clarity for prospective licensees regarding whether the license fee is non-refundable.

#### Proposed section 5015

The proposed regulation is necessary to support the Bureau’s regulatory program. The Bureau is authorized to collect fees in connection with its regulatory activities under section 26012, subdivision (b) of the Business and Professions Code. Subsection (a) is necessary because it clarifies what methods applicants for licensure may use to remit payments to the Bureau. The Bureau has also clarified that checks and money orders may be made out to the Bureau or the Department of Consumer Affairs. This is necessary to ensure payments can properly be processed.

Subsection (b) is necessary because it provides additional clarification for payments remitted by debit or credit card, by specifying that payment through these methods shall be done via the Bureau’s online licensing system. The subsection also clarifies that if an applicant chooses to pay via debit or credit card, there may be additional fees imposed by the third-party vendor that will be processing payments.

The penalty outlined in subdivision (c) is necessary to address circumstances where an applicant for licensure or licensee pays an amount less than the appropriate licensing fee. It clarifies potential penalties and provides that failure to pay appropriate fees may also result in disciplinary action. This is necessary as the Bureau is required to fund its operations through licensing fees and will help ensure that fees are paid. This section also recognizes that a licensee may underestimate the maximum dollar value of its planned operation and provides the Bureau discretion to waive penalty fees based on the individual’s situation.

### Proposed section 5016

Proposed section 5016 is necessary to address the information needed by the Bureau to evaluate whether an applicant meets the criteria contained in Business and Professions Code section 26054.2, which requires that in issuing licenses the Bureau shall grant priority in issuing licenses to applicants that can demonstrate the applicant operated in compliance with the Compassionate Use Act of 1996 and its implementing laws before September 1, 2016. The section provides two ways to establish priority, being on a list from the local jurisdiction and providing a document containing specified information. Not all applicants will have preserved specific information related to cannabis activity in anticipation of future state regulation and the industry has only been regulated at the local level, providing alternate methods of meeting this threshold is necessary. Applications will be processed in the order received to allow for efficient processing.

### Proposed section 5018

The purpose of this proposed section is to define additional grounds for which the Bureau may deny a license. Business and Professions Code section 26057 states non-inclusive grounds for denial of a license. This proposed regulation is added to provide additional clarification to the Act and is necessary to provide transparency to the industry regarding additional reasons the Bureau may choose to deny a license.

When applying for a license from the Bureau, applicants are required to submit certain documents to the Bureau, including operating procedures and a diagram of their proposed premises. Subsections (a) and (b) of this proposed regulation clarify that the Bureau may deny an applicant whose premises does not comport with standards set in regulation or whose premises is substantially different from the premises diagram submitted to the Bureau. Subsection (b) clarifies that an applicant's premises is substantially different from the diagram of the premises submitted by the applicant, in that the size, layout, location of a common entryways, doorways, or passage ways, means of public entry or exit, or limited-access areas within the licensed premises are not the same. This allows the Bureau to take action if the applicant misrepresents the premises in the diagram, therefore, ensuring that a license is not issued if the premises does not comport with the Act.

The Act authorizes the Bureau to inspect commercial cannabis premises to verify that commercial cannabis operations are operating in accordance with the Act. Subsection (c) of this proposed regulation will ensure that the Bureau is able to deny a license to an applicant that denies the Bureau access to their premises for the purposes of inspection.

Proposed subsections (d) and (e) specify that committing a material misstatement or failing to correct deficiencies on a license application is grounds for denial of a license. The Bureau relies on accurate information in the application to determine whether an applicant is qualified for licensure. It is imperative that the information provided be accurate. The Bureau has determined that these proposed subsections are necessary to deter material misstatements or deficiencies on applications and to clarify that the Bureau may deny an application if such misstatements or deficiencies were to occur.

Proposed subsection (f) provides that the applicant may be denied for a license for the Bureau if it has been denied a license, permit, or other authorization to engage in commercial cannabis activity by a state or local licensing authority. This is necessary because there are two other state licensing authorities and hundreds of local licensing authorities. If one of the other licensing authorities denies an applicant, the Bureau must be able to take that denial, and the reasons for that denial, into consideration.

Proposed subsection (g) provides that the applicant may be denied a license for failure to comply with the California Environmental Quality Act (CEQA, Division 13 (commencing with Section 21000) of the Public Resources Code). This is necessary because every discretionary approval, such as an application for licensure submitted to the Bureau for review, requires at least some environmental review pursuant to CEQA. Consistent with CEQA's review requirements, a license may not be approved if feasible alternatives or mitigation measures are able to substantially lessen the significant environmental effects generated by its approval.

Proposed subsection (h) provides that the applicant may be denied a license for failure to remit taxes as required under the Revenue and Taxation Code. This is necessary because license fees are based on the maximum dollar value of a licensee's planned operation. If applicants are not remitting their taxes as required under the Revenue and Taxation Code, it will be difficult for the Bureau to determine whether an applicant is paying the appropriate scaled license fee. Moreover, failure to pay taxes may have bearing on whether an applicant is fit for licensure.

Proposed subsection (i) provides that the applicant may be denied a license on any additional violations of applicable law. This provision provides clarity to licensees that violations of applicable law that may not be included in the Act specifically could be grounds for denial, such as failure to comply with laws applicable to all businesses, not just cannabis businesses. This provision is also necessary because it provides some flexibility on the types of evidence that can be considered by the Bureau in determining whether an applicant is fit for licensure.

### Proposed section 5023

The Bureau recognizes that the information provided as part of an application for licensure is not static and changes may arise. The purpose of this section is to require existing licensees to timely notify and apprise the Bureau of any changes to the information listed in the application; this assures that the Bureau has up-to-date information on its licensees. It also clarifies that any change to the business organizational structure or ownership requires the submittal of a new application for licensure.

Proposed subsection (a) is necessary to assure that all licensees maintain up-to-date copies of their standard operating procedures. This allows for the Bureau to effectively administer its inspection duties under the MAUCRSA and assures that current standard operating procedures for each licensee, are available for review.

Business and Professions Code section 26051.5, subsection (a)(5) requires that a licensee who employs 20 or more employees provide a statement that the licensee will enter into or has entered into a labor peace agreement. Proposed subsection (b) clarifies that licensees who employed less than 20 employees and were not subject to this provision at the time the license was obtained, must

comply with the requirements of the statute if at some point after licensure, they employ 20 or more employees and become subject to this provision. The requirement to enter into the agreement within 30 days ensures that the licensee will promptly comply with the statute and is the same amount of time in which an applicant without an agreement must enter into one. The Bureau is no longer requesting a copy of the agreement as the statute does not mandate the terms of the agreement is it is unnecessary.

Proposed subsection (c) is necessary to clarify that anytime ownership changes or the business changes its organizational structure a new application is required. This is necessary to verify ownership and conduct background checks on owners.

Proposed subsection (d) is necessary to clarify that anytime there is a change in persons with financial interest in the commercial cannabis business that do not meet the requirements for a new license, the licensee must submit this information. This is necessary because of the need to verify financial interests in commercial cannabis entities.

There may be some situations where a licensee has one license designation and may want to engage in both A and M licensed activities. Subsection (e) is necessary because it clarifies the procedures that a licensee must follow in order to request additional commercial activities under their license. It also clarifies that a licensee may not engage in the additional licensed activities until they have received formal approval from the Bureau to do so; therefore, allowing the Bureau to ensure that the licensee meets all the requirements for the new designation, including that the activity is allowed by the local jurisdiction.

Proposed subsection (f) clarifies that microbusiness licensees may request a modification to their existing microbusiness license to add additional licensed activities and outlines the procedure to do so. This subsection also clarifies that a licensee may not engage in the additional licensed activities until they have received formal approval from the Bureau to do so. This provision is necessary to allow the Bureau to determine whether the licensee meets all of the requirements to conduct the additional activity before the licensee engages in the activity.

Business and Professions Code section 26053, subsection (d) requires a separate license for each location where a licensee engages in commercial cannabis activity. Consistent with this requirement, proposed subsection (g) clarifies that anytime a licensee wishes to change the location of their licensed premises, a new application must be submitted. This provision is necessary to allow the Bureau to determine if the proposed new location is acceptable for licensure as required by the Act.

#### Proposed section 5024

The Bureau recognizes that certain events may inhibit an owner's ability to effectively satisfy the conditions of licensure. The purpose of this section is to specify what happens to a license in the event of an owner's death, incapacity, receivership, assignment for the benefit of creditors of a licensee, or other event rendering an owner incapable of performing the duties associated with the license. This section is necessary as it provides an owner's successor in interest the opportunity to transition the owner's operations and/or wind-down the licensed business' affairs prior to expiration of the license. This regulation provides that, although the successor in interest may



continue operations on the licensed business premises for a period of time, the successor in interest is not automatically guaranteed issuance of a state cannabis license. Requiring the successor in interest to submit a new application for licensure after a certain period enables the Bureau to determine a new owner's fitness for licensure. The Bureau now proposes to use the term owner, instead of licensee, in this section for clarity purposes as an owner may have an interest in the license but may not be the actual licensee to which the license is issued, such as when the licensee is an entity.

#### Proposed section 5025

The MAUCRSA, in section 26053, subdivision (d) of the Business and Professions Code, requires that each premises upon which commercial cannabis activity is conducted be licensed. Proposed subsection (a) further elaborates on the premises and by doing so ensures that applicants know how many licenses they will need for the areas upon which they will conduct their commercial cannabis activity and the requirements for each location. The premises on which commercial cannabis activity is conducted is subject to numerous requirements and inspection by the Bureau, therefore, one designated area, with its own distinct address or suite number, which is occupied by one licensee, allows the Bureau to effectively inspect the area and allows for one responsible licensee who must ensure compliance with license conditions.

Subsection (b) is necessary to clarify the limited circumstances in which a licensee may have the same licensed premises for adult-use and medicinal commercial cannabis activity. Specifically, this subsection provides that where a licensee holds an A-designation and an M-designation for one type of commercial cannabis activity under the same ownership, the activities may be conducted on the same premises. This subsection clarifies for the licensee that when a licensee holds licenses for separate types of cannabis activity; those activities may not be conducted on the same premises. It also clarifies that licenses with different owners may not be located on the same premises; thus, need defined spaces.

Subsection (c) is necessary to clarify that licensees authorized to engage in retail activities may only sell cannabis goods to customers within their licensed retail premises. Security is very important in operating a cannabis business. Allowing a licensee to utilize a drive through or walk-up window may result in the licensee losing control over who enters the premises, which may lead to an increased risk of theft, diversion, or other unauthorized activity. A similar concern arises with deliveries from the retail premises to customer's motor vehicle. The risk of losing control over the premises is eliminated with this subsection.

Section 26054 (a) of the Business and Professions Code prohibits licensee's from selling alcoholic beverages or tobacco products at a premises licensed under this division. Accordingly, subsection (d) clarifies that alcohol may not be stored or consumed at a licensed premises, thereby limiting the potential for licensees to violate this enumerated provision in MAUCRSA. Subsection (e) requires a wall between manufacturing and cultivation premises, and other types of premises. It also requires doors to be closed. This provision is necessary for public safety as chemicals may in use during cultivation and manufacturing; thus, a barrier will protect others.

### Proposed section 5026

The purpose of this section is to provide added clarity on appropriate locations for a prospective licensee's premises. Proposed subsections (a) and (b), consistent with section 26054 of the Business and Professions Code, indicate that a licensed premises shall not "be located within a 600-foot radius of a school providing instruction in kindergarten or any grades 1 through 12, day care center, or youth center that is in existence at the time the license is issued, unless a licensing authority or a local jurisdiction specifies a different radius." Where a local jurisdiction has issued a license or permit to conduct commercial activity at a premises that is located within the 600-foot radius identified above, subsection (b) identifies the types of evidence the Bureau will consider to evaluate if the premises location meets the statutory requirements.

Subsections (c) and (d) are necessary for public health and safety by ensuring that the licensee is the only one in control of the licensed premises. Allowing a licensed premises that may only be accessed via another business or residence may result in the licensee losing control over who enters the premises, which may lead to an increased risk of theft, diversion, or other unauthorized activity. Additionally, an unlicensed person is not subject to the rules and regulations for operating a cannabis business. The risk of the licensee losing control over the premises is eliminated with the location restrictions identified in these subsections. Additionally, due to privacy issues, it is not appropriate for the licensed premises to be comingled with a residence which may be occupied by non-licensees and may prove difficult to determine the premises from the living quarters.

Subsection (e) is necessary to assure that the Bureau is able to conduct timely inspections when needed. This subsection is also necessary to assure that the Bureau can effectively enforce its regulations and conduct thorough investigations.

### Proposed section 5027

In order for the Bureau to effectively carry out its duties under the Act, it is necessary to have accurate and up-to-date information on licensed premises. The purpose of this section is to specify that a licensee shall not make a physical change, alteration, or modification of the licensed premises that materially or substantially alters the licensed premises or the use of the licensed premises without the prior written approval of the Bureau.

Proposed subsection (a) requires the licensee to receive written approval from the Bureau prior to making any material alterations. Without requiring a licensee to update the Bureau of material alterations, there is no assurance that the changes are permitted within the statutory and regulatory framework. Without the affirmative duty of a licensee to notify the Bureau, a change may go a significant amount of time in noncompliance before discovery. Altering premises without notification could also hinder Bureau investigations and audits, make site visits take longer, and potentially be unsafe. By requiring an affirmative duty to notify the Bureau of material changes, the regulations ensure that the Bureau is consistently aware of the shape, condition and legality of licensed premises.

Proposed subsection (b) lists examples of material changes and is necessary to inform licensees of what premises changes will require prior approval from the Bureau. The changes listed may impact whether the premises are appropriate for licensure and require additional evaluation to ensure

compliance with law. Proposed subsection (c) provides the requirements of a request for approval of a physical change, alteration, or modification and is necessary to specify what a licensee must provide to the Bureau with the initial request. Proposed subsection (d) provides that a licensee shall provide additional documentation as requested by the Bureau, and is necessary for situations where the Bureau needs additional information in order to approve or deny the licensee's request for premises modification.

#### Proposed section 5029

Section 26130, subdivision (b)(2) of the Business and Professions Code provides that edible cannabis products shall not exceed 10 milligrams per serving. Proposed subsection (a) clarifies when the Bureau will start enforcing this statutory requirement.

MAUCRSA outlines a number of packaging and labeling provisions that must be adhered to by licensees engaging in commercial cannabis activities. However, the transition to the regulated market will take time. In addition, some licensees may have product that had been procured prior to January 1, 2018. Subsection (b) would allow licensees to conduct engage in certain commercial cannabis activities, that are otherwise prohibited, until July 1, 2018. This will allow commercial cannabis to be available to all licensees as the regulated commercial cannabis market continues to develop statewide. The Bureau has removed subsection (b)(1) which allowed licensees to do business with any other licensee irrespective of designation because this provision will not cease to be in effect after June 20, 2018, and is now addressed in section 5032. The language of subsection (b)(4) was modified for clarity.

#### Proposed section 5031

This proposed section clarifies that employees working within a licensed premises and/or handling cannabis or cannabis products shall be at least 21 years of age. Business and Professions Code section 26140, subdivision (a)(3) prohibits licensees from employing or retaining persons under 21 years of age. The Bureau finds that extending this requirement to all licensees is integral for the protection of minors by limiting access to cannabis goods. The Bureau recognizes that there may be some non-management or non-cannabis activities, such as internet technology or multimedia services, which do not require an employee to handle cannabis or work within the licensed premises; this regulation would permit the retention of persons under 21 years of age, provided the employee or contractor does not work within the licensed premises or handle cannabis.

#### Proposed section 5032

The purpose of this section is to protect public health and safety and ensure an effective method of tracking both adult-use and medicinal commercial cannabis goods by specifying the requirements for transactions between licensees. This section also recognizes the importance of providing licensees the ability to procure and sell product based on the commercial cannabis market's demands. In furtherance of these goals, subsection (a) specifies that all commercial cannabis activity shall be conducted by licensees. Subsection (b) provides that Bureau licensees may conduct business with other licensees irrespective of the "M" or "A" designation on their licenses. Subsections (c) and (d) specify who licensed distributors and retailers may sell goods

designated as “For Medical Use Only” to comply with requirements for medical only products. This section is necessary for the reasons discussed above in the section entitled “License Designations – “A” and “M” Commercial Cannabis Activity.”

#### Proposed section 5038

Proposed section 5038 is necessary, in part to ensure that, pursuant to Business and Professions Code section 26013, subdivision (c), compliance with the regulations is not so onerous that the operation under a cannabis license is not worthy of being carried out in practice by a reasonably prudent businessperson. The Bureau has determined that in certain circumstances a licensee may be relieved from regulatory provisions. Additionally, Government Code section 8571 provides that during a state of emergency the Governor may suspend any regulatory statute, or statute prescribing the procedure for conduct of state business, or orders, rules, or regulations of any state agency, where the Governor determines and declares that strict compliance with any statute, order, rule, or regulation would in any way prevent, hinder, or delay the mitigation of the effects of the emergency. This section would allow licensees that have been impacted by a disaster to be relieved from rules, orders and regulations that would otherwise delay mitigation of the effects of the disaster and the ability to keep cannabis goods secured to prevent diversion in the illegal market and prevent minors from accessing cannabis goods. This section is necessary to allow the Bureau to carry out the implementation and enforcement of MAUCRSA, and the regulation of commercial cannabis activity. Notice of commercial cannabis activity that may be in conflict with MAUCRSA or the regulations should be provided to the Bureau. This section is also necessary to ensure that licensees are provided an opportunity to exercise the privileges of their license, when otherwise prohibited from doing so by forces and circumstances beyond their control, without making compliance with the regulations so onerous that the operation under their license is not worthy of being carried out in practice.

This section is necessary to ensure that licensees who have been impacted by a disaster are not deemed to have surrendered, abandoned, or quit their licenses, due to the impacts of the disaster, if their intent is to continue as a licensee. Additionally, the provisions allowing a licensee to move product to a location different than the original location approved by the Bureau is critical to public safety to ensure that cannabis goods are secured. The Bureau has determined that 24 hours to notify the Bureau is sufficient time for the licensee to immediately secure cannabis goods while providing prompt notice of the change in location to the Bureau. Further, the Bureau has determined that 10 business days is the appropriate time to allow a licensee to provide the Bureau with a request for relief as it allows the licensee time to address the immediate effects of the disaster on the licensee’s business while not allowing too much time to elapse before the Bureau can evaluate the proposed plan.

#### *Article 4*

Article 4 of the proposed regulations contains requirements for posting and advertising. The proposed regulations would specify that the licensee must post the license at the licensed premises and clarify where the license must be displayed. The proposed regulations would specify where and when advertising or marketing placed in broadcast, cable, radio, print, and digital communications are allowable as well as specifying that the licensee must provide to the Bureau the audience composition data upon request. The proposed regulations would also specify that any

advertising or marketing involving direct, individualized communications must utilize a method of age affirmation to verify that the recipient is 21 years of age or older.

Article 4 is necessary to implement the statutory requirements related to advertising. The Bureau has clarified that the licensee must be able to provide data that the target audience of an advertisement meets the statutory percentage for advertisements, and that the licensee must take steps to ensure the recipient is 21 years or older. Requiring the licensee to conduct research about the market will help to prevent violations of the advertising rules and allow the Bureau to determine if the advertisement complies with law. Providing examples of how one can verify age will assist in preventing violations of the MAUCRSA.

#### Proposed section 5040

Business and Professions Code section 26151, subdivision (b) provides that any “advertising or marketing placed in broadcast, cable, radio, print, and digital communications shall only be displayed where at least 71.6 percent of the audience is reasonably expected to be 21 years of age or older, as determined by reliable, up-to-date audience composition data.” For convenience and clarity purposes, subdivision (a) of this section restates the requirements of MAUCRSA. Subsection (a) also prohibits the use of depictions or images of minors under 18 years of age. This is necessary to assure that advertising is reasonably tailored to appropriate, adult-audiences.

This section further provides clarity on how the Bureau will enforce this requirement. Specifically, subdivision (b) provides that upon request, licensees must provide the Bureau with audience composition data supporting the placement of advertising. This provision is necessary to ensure that the Bureau can determine whether the statutory requirement regarding age composition has been met by the licensee.

Where the audience composition data for advertising or marketing provided by the licensee does not comply with MAUCRSA, subdivision (c) requires the licensee to remove the advertising and marketing in question. This subdivision is necessary because it outlines the consequences of not complying with the advertising provisions of MAUCRSA.

#### *Article 5*

Article 5 of the proposed regulations contains minimum-security requirements that would apply to all licensees. The minimum-security requirements would include a requirement that visitors to a licensed premises be escorted by the licensee or an employee while in the limited-access areas of the premises and would require that employees of the licensee wear identification badges. The proposed regulations would also specify that licensees must use video surveillance systems and would provide the requirements for video surveillance. The proposed regulations would also specify that licensees must ensure that the limited-access areas can be securely locked using commercial-grade, nonresidential door locks and that licensees must use an alarm system at the licensed premises. The proposed regulations would also include a requirement that a retail licensee shall hire or contract for security personnel to provide security services for the licensed premises.

The MAUCRSA mandates the Bureau to promulgate regulations that ensure a safe and secure operation of the cannabis goods market. Business and Professions Code section 26011.5 holds

that the protection of the public shall be the highest priority for all licensing authorities in exercising licensing, regulatory, and disciplinary functions under MAUCRSA. Business and Professions Code section 26070, subdivision (b) provides that the Bureau shall establish minimum security requirements for the commercial distribution and delivery of cannabis and cannabis products. Business and Professions Code section 26070, subdivision (j) requires licensed retailers and microbusinesses to implement security measures reasonably designed to prevent unauthorized entrance into areas containing cannabis or cannabis products and theft of cannabis or cannabis products from the premises.

Article 5 is necessary to ensure that licensed premises are locked securely and that cannabis goods do not fall into the hands of minors, non-licensees, or persons who do not meet the requirements to possess cannabis. The proposed security measures will also protect public safety by limiting diversion into the illegal market.

#### Proposed section 5042

Proposed Section 5042 establishes that any individual who is not an employee, owner, or contractor of the licensee, must be escorted by the licensee or at least one employee, when in the limited-access areas of the licensed premises. Further, the proposed section now would require that all limited-access areas contain a locked door that is not open during operating hours except for when in use.

This section is necessary to ensure that limited-access areas, which can store cannabis goods and business records, do not become widely accessible to members of the public or to individuals that do not have a business-related purpose on the licensed premises. Limiting access to cannabis goods and records will ensure integrity of the product and goods, and reduce the risk of diversion. It also ensures that licensees can account for the individuals on their licensed premises.

#### Proposed section 5044

Proposed Section 5044 requires that each licensed premises maintain a video surveillance system (VSS) that meets specific requirements. Subdivision (a) requires a VSS to have at a minimum, camera resolution of 1280 x 720 pixels, and subdivision (b) requires the storage device or cameras to be transmission control protocol capable of being accessed through the internet. Subdivisions (c) and (d) require the VSS to effectively and clearly record images of the area and activities under surveillance, through permanently mounted and fixed locations that records within 20 feet of all points of entry and exit on the licensed premises. Subdivisions (e)-(1) provide the standards for recordings so that the recordings will allow for clear images, stored properly and available to the Bureau.

This section is necessary to ensure the safety of the individuals engaging in commercial cannabis activity, which is a cash-intensive industry, and more prone to safety risks. A VSS will not only deter potential criminal and illegal activities, but will also help licensee and enforcement authorities when reviewing illegal or criminal activities that have occurred.

The Bureau proposes to add subsection (m) which allows the sharing of surveillance systems if licensees reside in the same building. Each licensee must have access to the system and all are responsible for any violations. This provision is necessary to assist licensees with the costs of all

compliance based on public feedback, while also ensuring that licensees cannot simply blame one another if a violation occurs.

#### Proposed section 5045

Proposed section 5045 is necessary as security personnel will assist in keeping cannabis goods and persons at licensed premises safe. Commercial cannabis businesses operate within certain restrictions, including limitations on financial services through federally insured institutions, like banks. Due to this limitation, many commercial cannabis businesses engage predominantly in cash transactions, and are thus subject to increased security risks. Public comments received from commercial cannabis businesses indicated that many currently in the cannabis market have hired or contracted for security personnel, and believe such security measures are necessary for the safety of their personnel and customers. Unlike other licensees, retailers sell to the public at large, therefore, their premises present a heightened security risk than other licensees. The Bureau has proposed subsection (b) which provides that non-storefront retailers do not have to have security personnel as unlike a regular retailer the premises is not open to the public. Language related to the 21 year age limit for persons working at the premises and that security must always be present was added for clarity based on questions received by the Bureau.

This section is also necessary to provide clarity on the applicable definition of security personnel and ensure any security personnel meet the state requirements for the activities to be conducted as required by the Bureau of Security and Investigative Services.

A provision has been added to allow the sharing of security personnel for multiple premises located in the same building. This provision is necessary to assist licensees with the costs of compliance based on public feedback, while also ensuring that licensees cannot simply blame one another if a violation occurs.

#### Proposed section 5047

This section requires each licensee to keep and maintain an alarm system as defined in the Business and Professions Code section 7590.1, subsection (n). The MAUCRSA mandates the Bureau to craft regulations that ensure safe and secure operation of the commercial cannabis market. Current law permits the use of alarm systems but does not clarify the type or quality. This section is necessary to clarify for licensees the type and quality of alarm systems permitted for use. Alarm systems will prevent theft and help ensure public safety.

The Bureau proposes to add subsection (d) which allows the sharing of an alarm system if licensees reside in the same building. Each licensee must have access to the system and all are responsible for any violations. This provision is necessary to assist licensees with the costs of compliance based on public feedback, while also ensuring that licensees cannot simply blame one another if a violation occurs.

### ***Article 6***

MAUCRSA requires that all cannabis goods be tracked throughout the supply chain. Article 6 of the proposed regulations would specify the requirements for using the track and trace system and reporting the movement of cannabis goods in the system. The proposed regulations would also

specify that licensees must reconcile the physical inventory of cannabis goods at the premises with the track and trace records at least once every 14 days. The proposed regulations would also clarify the track and trace requirements for licensees operating under a temporary license, and those in operation at the time of licensure. The proposed regulations would also clarify what a licensee must do if the track and trace system cannot be accessed and the information that must be entered.

Article 6 is necessary to ensure that information is appropriately entered into the track and trace system to meet statutory requirements for the track and trace system, avoid diversion, audit licensee's activities, ensure cannabis goods have passed testing requirements, and allow for recall of unsafe cannabis goods. Business and Professions Code section 26067 requires the state to develop a track and trace system to record the movement of cannabis. The purpose of the track and trace program is to allow the Bureau and other licensing authorities to track the movement of all cannabis goods as the products move from licensee to licensee and eventually to the customer.

#### Proposed section 5052

Proposed section 5052 ensures effective tracking of the movement of cannabis goods by identifying the timing of track and trace responsibilities for licensees. Proposed subsection (a) indicates that a temporary licensee is not required to record commercial cannabis activity in the track and trace system. This section takes into account that temporary licensees will not have had the necessary track and trace training at the time of licensure. Proposed subsection (b) requires all temporary licensees to record all necessary track and trace information, at a minimum, on paper receipts, invoices, or manifests. The requirement that these items be maintained will aid the Bureau in enforcing these regulations, conducting investigations, and preventing diversion and other illegal activity. Proposed subsection (c) requires that all cannabis activity conducted between annual license holders be recorded in the track and trace system. In order for the track and trace system to be effective, all annual licensees must actively participate in the system. Proposed subsection (d) provides that temporary licensees in operation at the time of annual license issuance are required to input track and trace information from the date the account manager attends training forward. This information is to be input no later than 30 days after the track and trace system account manager attends the required training. This section ensures that all information is uploaded by the licensee. It also ensures that the Bureau is provided with all the required information once the track and trace system is operational. This information will allow the Bureau and other licensing authorities to track the movement of all cannabis goods as the products move from licensee to licensee and eventually to the customer.

#### *Article 7*

Article 7 of the proposed regulations would specify when returns of cannabis goods are permitted. The proposed regulations would also specify how cannabis waste is to be managed. The proposed regulations would also allow returns of defective products between licensees.

Article 7 is necessary to ensure that returns are limited to only defective products to protect consumer safety and ensure that returned products are destroyed appropriately to minimize diversion and to ensure that cannabis waste is handled in compliance with state law related to



waste. This will assist with public safety by limiting opportunity for cannabis goods to be diverted into the illegal market at the time of disposal or destruction.

## Chapter 2: Distributors

The proposed distributor regulations would accomplish three goals: (1) ensuring cannabis goods are properly stored, handled, packaged, and tested; (2) ensuring distributors keep and maintain records that are adequate to effectively track and trace the cannabis goods, thereby assuring that cannabis goods are safe for use by the consumer prior to distribution for retail sale; and (3) ensuring cannabis goods are transported in a safe and secure manner.

First, the proposed regulations would clarify that a distributor may not store or distribute non-cannabis goods on or from the licensed premises. The proposed regulations would require that cannabis goods are properly stored, handled, packaged, and tested. The proposed regulations would allow a distributor to package, re-package, and label or re-label cannabis in the form of dried flower for a licensee. However, the proposed regulations would prohibit a distributor from accepting cannabis goods that have not already been packaged by the manufacturer who manufactured the products, unless the distributor also holds a manufacturing license and is packaging, re-packaging, labeling, or re-labeling its own manufactured cannabis products. The proposed regulations would also clarify the logistics for laboratory testing and would require the sampling to be recorded on video and the distributors to witness sampling in person. The proposed regulations would clarify when a batch “passes” laboratory testing and when it “fails.” The proposed regulations would specify the steps a distributor must take in conducting final quality-assurance review prior to transporting the cannabis goods to retailers.

Second, the proposed regulations would specify that distributors maintain commercial general liability insurance in the aggregate in an amount no less than \$2,000,000 and in an amount no less than \$1,000,000 for each loss. The proposed regulations would also specify that distributors must conduct inventory reconciliation at least once every 14 days and keep and maintain records specific to distribution and quality-assurance.

Third, the proposed regulations would clarify the requirements for the transportation of cannabis goods, requiring that the cannabis goods are not visible or identifiable during transport, that the cannabis goods are only transported by vehicle, requiring the cannabis goods to be in a secure locked box within the interior of the vehicle, requiring the vehicle to be attended at all times in residential neighborhoods, and requiring all transport vehicles to be equipped with alarm systems. The proposed regulations would specify that certain transport vehicle information must be provided to the Bureau and would set the minimum age for persons in commercial transport vehicles at 21 years of age. The proposed regulations would also require a distributor to submit a shipping manifest to the Bureau and the licensee receiving the cannabis goods prior to transport, and would specify what information a shipping manifest must contain. The proposed regulations would also specify a distributor transport only license which would allow the holder to exercise certain privileges related to transport only. The fees for a distributor transport only license would depend on whether the licensee would transport only the licensee’s product or product for other licensees.

The proposed regulations in Chapter 2 are necessary to implement and clarify the statutory requirements for distributors. Proposed section 5300 prohibits the distribution or storage of non-cannabis goods, with the exception of cannabis accessories and items used to conduct business, in the distributor's licensed premises. Cannabis goods is defined in proposed section 5000(c) and an item not meeting this definition would be included in non-cannabis goods. This is necessary to ensure public safety by not allowing other non-licensed activities to take place on the premises and to assist Bureau staff and law enforcement during inspections and audits. It is necessary to clearly delineate what may and may not occur on the licensed premises. Because the Bureau does not license non-commercial cannabis activities, it is proposed that such activities be prohibited. This applies to distribution or storage only services and does not prevent a licensee from storing supplies used in the business, such as office products, toilet paper, receipt books, cleaning supplies, and other similar items.

### Proposed section 5303

Proposed section 5303 prohibits a distributor from packaging, re-packaging, labeling, or re-labeling cannabis products, with certain exceptions. Subsection (a) allows distributors to package and label cannabis, including pre-rolls, so that, after a batch has gone through laboratory testing, the cannabis need not return to the cultivator for packaging and labeling, as prohibited by the Department of Food and Agriculture's regulations. Subsection (b) clarifies that if a distributor also holds a manufacturing license, it is not prohibited from packaging and labeling its own manufactured cannabis products.

Proposed subsection (c) allows the distributor to relabel packages where the cannabinoid or terpenoid levels are determined to be incorrect, but within limits for sale, during laboratory testing on a manufactured product. This provision would eliminate the need to transfer possession of cannabis products back to the originating manufacturer, allowing for the unrestricted movement of cannabis products through the supply chain.

Along with storage and destruction, the ability of a distributor to package and label cannabis goods will allow for more efficiency and streamlined movement of cannabis goods through the distribution chain, which is necessary to ensure minimization of disruption to the commercial cannabis enterprise. Disruptions to the movement of cannabis goods through the supply chain will increase risks of diversion, as the cannabis goods will be exposed to a larger number of entities and persons before ultimately reaching the retailer and end-user.

### Proposed section 5306

This section specifies the process for when a cannabis goods batch passes or fails the state-mandated laboratory test, clarifying Business and Professions Code section 26100 and 26110. Under proposed subsections (a) and (b), a batch passes if the samples analyzed by the testing laboratory meet the specifications set in regulation in Chapter 6, allowing the distributor to transport the cannabis goods to retailers. Conversely, as stated in proposed subsections (c) and (d), the batch fails testing if the samples analyzed by the laboratory do not meet the specifications set in regulation in Chapter 6, requiring the distributor to either relabel the cannabis goods if permissible, arrange for transportation of the cannabis product batch back to the manufacturer for remediation, or if the distributor is unable to do either, to destroy the failed batch. The provision

allowing cannabis goods to go to a cultivator for remediation has been removed to be consistent with the Act.

This section is necessary to carry out the requirement under MAUCRSA that all cannabis batches be subject to quality assurance review and testing, and specifies how and when cannabis goods meet testing standards to be safely sold to consumers, and how cannabis goods that fail testing are to be handled and disposed of, so that they are not illegally diverted, or exposed to children or other individuals. It further clarifies the requirement under Business and Professions Code section 26110, subdivision (c)(1), that all cannabis goods are stored on the distributor's premises until testing determines how the distributor may treat the cannabis goods. Additionally, this section is necessary to ensure proper destruction and disposal of the failed cannabis goods batch, which the distributor, who has physical possession of the cannabis goods, is in the best position to carry out. The ability to send failed cannabis batches to a cultivator for remediation has been removed to be consistent with the MAUCRSA.

#### Proposed section 5307

This proposed section contains the process by which distributors perform quality assurance reviews after receiving a certificate of analysis and before transporting any cannabis goods to a retailer for sale, as required by MAUCRSA pursuant to Business and Professions Code section 26110, subdivision (e).

Proposed subsection (a) would require that distributors ensure that the certificate of analysis received from the licensed testing laboratory corresponds to the batch currently being held by the distributor. This requirement is necessary to ensure that batches are not mistakenly identified so that a batch that has failed a laboratory test is not erroneously transported to a retail dispensary for sale to consumers. This will also account for the potential that cannabis goods batches may be mistakenly identified due to their similar appearance.

Proposed subsection (b) requires the distributor to ensure that, prior to transport to one or more retailers, cannabis goods are accurately labeled with the cannabinoid content and contaminants that correspond to the certificate of analysis. Under proposed subsection (c), the distributor shall ensure the cannabis packaging conforms to specifications required by law and clarifies that cannabis goods are not required to be labeled as medicinal products unless the California Department of Public Health requires them to be under their regulations. This is necessary because cannabis goods cannot be delivered to a retailer unless its packaging conforms to law.

Proposed subsection (d) requires the distributor to ensure that the cannabis goods packaging be tamper evident and defines that as the use of a seal affixed to the opening of the packaging, which will allow someone to recognize whether the package has been opened. Proposed subsection (e) would require a distributor to verify the weight or quantity of the batch matches that entered into the track-and-trace database, and that all events prior to receipt have been entered into the track and trace system.

This section is necessary to carry out the provisions of the statute requiring quality assurance review of cannabis goods prior to final distribution to a retailer. It clarifies the specific duties and obligations of the distributor for carrying out quality assurance review, such as checking for

accurate labeling, packaging, weight and count, and track and trace system reconciliation. Without clarity as to what steps need to be taken for quality assurance review, there will be no consistency in quality and integrity of the cannabis goods, which is integral to consumer safety and protection.

#### Proposed section 5311

This proposed section is required to establish security and safety requirements during the transportation and distribution of cannabis goods by distributor licensees, as required under Business and Professions section 26070.

Proposed subsection (a) is stated as defined in the Business and Professions Code section 26070 subdivision (c), “Transportation shall only be conducted by persons holding a distributor license under the ACT, or employees of those persons.” This section is necessary to clarify the requirements for transportation.

Proposed subsection (b) is stated as defined in the Business and Professions Code section 26070 subsection (d), “All vehicles transporting cannabis goods for hire shall be required to have a motor carrier permit pursuant to Chapter 2 (commencing with Section 34620) of Division 14085 of the Vehicle Code. This section is necessary to clarify the requirements for transportation.

Proposed subsection (c) clarifies prohibited modes of transportation, which includes transportation by aircraft, watercraft, drone, rail, human powered vehicle, and unmanned vehicles. With this section, the Bureau endeavors to make sure cannabis goods are secure and that licensees are abiding by all rules and regulations during transport. Prohibiting specific modes of transportation is necessary to reduce the risk of loss or theft, and attempts to limit potential conflicts with federal law and regulation. Additionally, enforcement of transportation by air, watercraft or drones, which often involve compliance with federal laws and regulations, is unduly burdensome and outside the purview of the Bureau’s current capabilities. Human powered and unmanned vehicles, which are less secure and more susceptible to third party interference and intrusion, are prohibited for safety of the public and security of the cannabis goods.

Proposed subsections (d) - (g) clarify the measures to be taken to ensure the security of cannabis goods during transport, and are necessary to clearly identify the methods needed to safely and securely transport cannabis goods. Requiring that cannabis goods not be visible or identifiable during transport is necessary to reduce the risk of theft or robbery, which exposes the general public to harm and danger. These measures are also necessary to prevent diversion of product into the illegal and unregulated market. Securely locking the product in a box within the interior of the vehicle, and not permitting the vehicle to be left unattended in a residential neighborhood is intended to discourage theft and protect public safety.

Proposed subsection (h) is required to help deter theft and unauthorized entrance into the vehicle. In the case a vehicle containing cannabis goods is burglarized, an alarm would help alert the licensee, employees, and enforcement personnel, and deter such criminal behavior.

Proposed subsection (i) is necessary to ensure that the already tested product will arrive at its destination in the same quality and quantity as it was before transport occurred, so as to limit the

risk of adulteration of cannabis goods, and ensure protection of the public health and safety. It also reduces the likelihood of diversion into the illegal or unregulated market.

Proposed subsections (j) – (k) specifies the transport routes that can be taken, as between licensees and without unnecessary deviations, and the goods that can be transported, which are necessary to ensure cannabis goods stay within the designated supply chain and prevents diversion into the illegal and unregulated market. Limiting the transport to only traveling between licensees shipping or receiving cannabis goods and its own licensed premises, ensures the licensee is not transporting mixed goods - cannabis goods and non-cannabis goods. This limitation reduces unwarranted exposure to potential diversion and contamination. This proposed subsection also recognizes the need for business efficiency and flexibility in transport. Allowing a distributor to transport more than one cannabis shipment at a time lessens the number of transport trips and the impacts on the environment and roads, and increases economies of scale. The language in this subdivision related to keeping A-designated and M-designated product separated has been removed as the Bureau will no longer require designation on all products prior to transport.

Proposed subsection (l) which specifically allows the Bureau to inspect transport vehicles trailers transporting cannabis goods and specifically permit access to all licensed premises is necessary for the Bureau to carry out its duties and enforcement responsibilities under the Act to ensure statutory and regulatory compliance. This section also clarifies that vehicles used to transport cannabis goods may be inspected by the Bureau at any licensed location, or during transport, to ensure the vehicle is properly equipped, carrying the required documentation, and contains a shipment compliant with the statute and regulations.

Proposed subsection (m) clarifies that when it is not operationally feasible to transport cannabis goods inside of a vehicle because the licensed premises that the cannabis goods are being transported to and the premises they are being transported from are within the same building or on the same parcel of land, then the distributor may transport the goods by foot, hand truck, fork lift, or other similar means. This section is necessary to provide clarity on the transportation requirements. The Bureau has learned that some local jurisdictions have strictly enforced the regulations and have required licensees to load a truck and drive it to the same building for reloading. Because of this understanding by local jurisdictions, the Bureau determined it was necessary to clarify when a vehicle is not required for the transportation of cannabis goods. The Bureau also proposes language indicating that a shipping manifest is still required if cannabis goods are transported without using a vehicle. This is necessary to ensure licensees understand the requirement and to allow proper tracking of all product in the track and trace system.

### Proposed section 5313

In the proposed regulation, the minimum age for drivers and passengers of licensed transport vehicles is 21 years old. The legal age for a person without a physician recommendation to possess cannabis goods is 21. This requirement helps ensure that persons who have dominion and control over cannabis goods during transport meet that age requirement. This provision assists in limiting a minor's access to cannabis goods. Permitting only a licensee, an employee of a licensee, or security personnel to be present during transport ensures that no unauthorized persons have access to the cannabis goods during transport. This section is necessary to ensure that cannabis goods are transported in a safe manner by persons qualified to transport cannabis goods thus ensuring the

protection of the public. The ability to have security personnel in the transport vehicle is proposed based on feedback received by the Bureau.

#### Proposed section 5314

Business and Professions Code section 26070, subdivision (e) requires that an electronic shipping manifest as prescribed by the licensing authority be completed by the distributor prior to transporting cannabis or cannabis products. The section also requires that the distributor “securely transmit the manifest” to the Bureau and the licensee that will be receiving the cannabis goods.

Proposed section 5314 clarifies the process and information that must be contained in shipping manifests, as required in Business and Professions Code sections 26067 and 26070. This section establishes when and how a shipping manifest is to be generated, and the information that must be contained within. By clearly stating the information transport licensees are required to have on their shipping manifest, the regulations allow for uniformity and consistency of records across transport licensees and increase the speed and effectiveness of Bureau enforcement investigations. Uniform manifests amongst the licensees also allow the Bureau to better train enforcement officers on what to expect and how to inspect a shipment. The better informed, prepared, and trained Bureau representatives and other law enforcement officers are, the better positioned they will be to identify and stop unauthorized activity, including entry of unauthorized cannabis into the market and diversion of cannabis goods.

The Bureau has added language providing specific actions a distributor may take to verify the shipment based on feedback. The distributor would be able to verify the shipment while not having to unpack each box to count the items within it.

If a shipping manifest is incomplete or does not have specific information regarding the cannabis goods being shipped or the intended destination, an enforcement officer would have a difficult time determining the legality and validity of the shipment. These proposed regulations are necessary to reduce the risk of diversion, and ensure cannabis goods stay within the regulated market through efficient tracking of cannabis goods during distribution.

#### Proposed section 5315

Proposed section 5315 provides for the requirements of a distributor transport only license, where such license only authorizes the transport of cannabis goods between cultivation, manufacturing, and distribution licensees. Proposed subsection (b) goes on to clarify the restrictions of distributor transport only licenses, prohibiting the transport of any cannabis goods to a retailer, unless the cannabis goods are immature plants and seeds from a licensed nursery.

Proposed subsections (b) – (d) requires an application for a distributor transport only license to meet the same requirements for a general distributor license application, except for fees which may be dependent upon whether the distributor transport only licensee is self-transporting, and also specifies that the distributor transport licensee shall comply with the same requirements for a general distributor license, aside from testing and quality assurance requirements.

Proposed subsections (e) – (f) prohibit a distributor transport only licensee from the following activities: holding title to any cannabis goods, unless the licensee also holds a license for

cultivation, manufacturing, retailer, or microbusiness; engaging in delivery of cannabis goods, engaging in the wholesale, destruction, packaging, labeling, or storing of cannabis goods; or arranging for the testing of cannabis goods.

Proposed subsection (g) would provide an exception to subsection (d) by providing that a distributor transport only licensee that is licensed to engage in self-distribution and whose premises will be on the same property as their cultivation or manufacturing premises shall not be required to comply with the security provisions contained in proposed Article 5 of these regulations. This is necessary because the Bureau received a lot of feedback from licensees regarding the difficulty in complying with the Bureau's security requirements when their primary premises is a cultivation premises that may not have electricity or access to the internet. Further, the Bureau determined that the transport only premises were small and primarily used for storage of records. The Bureau determined it was necessary to assist licensees in lowering their costs by not requiring security measures in cases where they are not needed.

This section is necessary to ensure that cannabis goods are properly handled throughout the supply chain, so they can safely and securely reach the consumer without diversion, adulteration, or other contamination. A distributor transport only license allows for efficiency in the distribution of cannabis goods. These licensees that specifically only engage in transport only services, will be relieved of the obligations and requirements for testing and quality assurance. And to ensure that the limitations are strictly followed, distributor transport only licensees are prohibited from certain activities, such as transporting to a retailer, unless it is immature plants and seeds from a licensed nursery. These restrictions are necessary to ensure that cannabis goods that have not been tested do not end up in the possession of the consumer.

### Chapter 3: Retailers

The proposed regulations would specify which individuals may access the retailer premises and limited-access areas. The proposed regulations would require that individuals only be granted access to the retail area to purchase cannabis goods after the licensee has verified that the individual is at least 21 years old, or that the individual is at least 18 years old and possesses a valid physician's recommendation. The proposed regulations would clarify the hours a retailer may operate, to whom cannabis goods can be sold to, and how cannabis goods may be displayed in the retail area.

The proposed regulations would clarify what goods a licensee may sell, including the provision that licensees may sell non-cannabis products and may sell live immature cannabis plants and seeds if certain requirements are met. The proposed regulations would specify the daily limit of cannabis goods that may be sold to an individual and would clarify that retailers may accept cannabis goods returned by customers. The proposed regulations would prohibit retailers from providing free cannabis goods to any person, unless certain criteria are met including that the free cannabis is provided only to medicinal cannabis patients. The proposed regulations would also clarify that a retailer may not package or label cannabis goods with the exception that all cannabis goods must be placed into an opaque exit package prior to the customer leaving the premises.

The proposed regulations would also set requirements for delivery and create a license for a non-storefront retailer to conduct retail cannabis sales exclusively by delivery and now at temporary

cannabis events. The proposed regulations would specify that delivery must be: (1) performed by a delivery employee of a licensed retailer; (2) made to a physical address; and (3) made using an enclosed motor vehicle outfitted with a Global Positioning System, vehicle alarm system, and operated by a delivery employee of the licensee. The proposed regulations would specify the amount of cannabis goods that can be carried by a delivery employee of a licensed retailer and that the delivery employee may not consume cannabis goods during delivery. The proposed regulations would also clarify what information must be in a delivery request receipt and what delivery route may be taken.

The proposed regulations would specify that retailers only accept shipments of cannabis goods from a licensed distributor and set requirements for maintaining an accurate record of inventory and performing inventory reconciliation. The proposed regulations would also specify the information a record of sale must contain.

The proposed regulations in Chapter 3 are necessary to implement and clarify the statutory requirements for retailers. Proposed section 5417 subsection (d) requires that all delivery vehicles be outfitted with a device for tracking the vehicle's geographic location. The subsection requires that the device be permanently or temporarily affixed to the vehicle. The subsection also requires that the device be functioning the entire time the vehicle is making deliveries. It is essential that a licensed retailer have a record of where its delivery vehicles are located at all times and that the Bureau can be provided that information for enforcement and public safety purposes. The device must be affixed to the vehicle at all times during delivery so that the device is not removed from the vehicle while the delivery employee is making a delivery. The device must be owned by the licensee to ensure that the licensee and the Bureau may access the device to determine the vehicle's route. In addition, the device must be exclusively used for delivery so that there is no confusion about when the device is used for commercial cannabis business and when it is used for other purposes not regulated by the Bureau to ensure that the data related to licensed activity is clear. Further, if a delivery vehicle with cannabis goods is reported missing or stolen, it would be beneficial to have a device inside of the vehicle for tracking purposes to assist in recovery of the cannabis goods.

#### Proposed section 5412

This proposed section prohibits a retailer from packaging and labeling cannabis goods.

Under the Act, all cannabis goods must be tested by a licensed testing laboratory and must receive a certificate of analysis from a licensed testing laboratory before being transported to a retailer for sale to customers. To ensure that the test results are accurate, the packaging of the cannabis goods must not be opened between the time the testing occurs and the time the cannabis goods are sold to the final user. Packaging or repackaging at the retail facility may result in contamination or adulteration of the cannabis goods, which may render the test results inaccurate. In order to ensure that the laboratory testing results accurately apply to the product the customer is purchasing from a retailer, a retailer may not open the packaging or repackaging cannabis goods prior to selling the cannabis goods to a customer. The purpose of this proposed section is to protect the public by ensuring accurate test results and safe products.



Subsection (a) of the proposed regulation clarifies that a retailer may not accept, possess, or sell cannabis goods that are not packaged as they will be sold at final sale. This proposed subsection will ensure that retailers do not receive any items that are not already packaged. Thus, reducing the risk that the retailer will have to package the cannabis goods themselves or sell cannabis goods that are not properly packaged and labeled.

Subsection (b) of the proposed regulation specifies that a retailer may not package or label cannabis goods. The purpose of this proposed subsection is to ensure that there is no confusion as to whether or not a retailer may engage in the packaging and labeling of cannabis goods.

#### Proposed section 5418

Proposed section 5418 is necessary to mitigate diversion into the illegal and unregulated market, and prevent unauthorized sales. The MAUCRSA mandates the Bureau craft regulations that ensure a safe and secure operation of the commercial cannabis market. The MAUCRSA does not provide clarity as to the permissible amount of cannabis goods that may be sent out of the retailer for delivery. Limiting the amount of cannabis goods that a delivery employee may carry also limits the amount of loss that may occur in the case of theft as well as reducing the risk of consumption during delivery. The Bureau has now determined that \$10,000 is an appropriate maximum amount for a delivery employee to carry in the vehicle, allowing for multiple deliveries. Based on an average order of approximately \$100, a delivery person would be able to make approximately 100 deliveries in one trip. The Bureau has added language to ensure licensee understand that all delivery requests must be before leaving the licensed premises to prevent extra product in a delivery vehicle, that could lead to diversion. The Bureau also requires verification of the customers identity and age. This is necessary to make sure cannabis goods are accounted for a delivered to the correct person.

#### Chapter 4: Microbusiness

Under MAUCRSA, a microbusiness license allows a licensee to conduct multiple commercial cannabis activities under one license. A microbusiness licensee is permitted to: cultivate cannabis on area less than 10,000 square feet; act as a licensed distributor; manufacture cannabis as a Level 1 manufacturer; and/or sell cannabis as a retailer. The proposed regulations would clarify that an applicant must engage in at least three of the four activities: cultivation, manufacturing, distribution, and/or retail sale. The proposed regulations now also specify that the areas of the premises for manufacturing and cultivation shall be separated from the distribution and retail areas by a wall and all doors between the areas shall remain closed when not in use. The proposed regulations would specify the information that must be provided in the application depending on the commercial cannabis activities the licensee intends to engage in. The proposed regulations would also clarify that microbusiness licensees must comply with all the rules and requirements promulgated for each commercial cannabis activity the licensee intends to engage in. The proposed regulations would clarify that if a licensee decides to change the activities they are authorized to engage in they must submit an application to the Bureau and that any suspension or revocation of a microbusiness licensee may affect all activities performed under that license. Finally, the proposed regulations would clarify specific application requirements for commercial cannabis businesses engaging in cultivation or manufacturing activities. The proposed regulations

would also specify additional record keeping requirements for microbusinesses engaging in cultivation and manufacturing.

The proposed regulations in Chapter 4 are necessary to implement and clarify the statutory requirements for microbusinesses. Business and Professions Code section 26070(a)(3) states that a microbusiness is “for cultivation of cannabis on an area less than 10,000 square feet and to act as a licensed distributor, Level 1 manufacturer, and retailer under this division, provided such licensee can demonstrate compliance with all requirements imposed by this division on licensed cultivators, distributors, Level 1 manufacturers, and retailers to the extent the licensee engages in such activities.” This section further states that a microbusiness license that authorizes cultivation of cannabis must include certain additional conditions required for a cultivation license issued by the Department of Food and Agriculture. While this proposed section allows a licensee to engage in four commercial cannabis activities, it is vague on how many of the activities a licensee must engage in. The statutory language implies that less than four activities can be engaged in when it states, “to the extent the licensee engages in such activities.” Further this interpretation is implied in the last sentence of the statute by specifically referencing additional requirements for a microbusiness license that authorizes cultivation. The last sentence also implies that cultivation is not a required activity by specifically referencing additional conditions a microbusiness would have to comply with if it holds a license that authorizes cultivation. Based on its interpretation, the Bureau determined that it was necessary to require that microbusinesses engage in at least three of the four activities. The reason for this is that cultivation and manufacturing activities are limited in some way under a microbusiness license but the distribution and retailer activities are not. Since the cultivation and manufacturing activities are limited the Bureau decided it was necessary to require that at least one of those activities be engaged in by the licensee, which is accomplished by requiring that at least three of the four activities be engaged in by the licensee. This will ensure that businesses operating under a microbusiness license will engage in most of the allowable activities, including a minimum of one of the limited activities, thus allowing for the vertically integrated activities allowable under a microbusiness license.

#### Proposed section 5500

Business and Professions Code section 26070, subdivision (a)(3) provides that the Bureau must establish a process by which an applicant for a microbusiness can demonstrate compliance with all the requirements under MAUCRSA for the activities that will be conducted under the license. This section is necessary to clarify the requirements for licensure, when an applicant seeks a microbusiness to conduct multiple commercial cannabis activities.

MAUCRSA is silent as to how many commercial cannabis activities an applicant must engage in to qualify for a microbusiness license. Subsection (a) is necessary because it clarifies that a licensee must engage in at least three of the following commercial cannabis activities: cultivation, manufacturing, distribution, and retail. This subsection is also necessary because it provides clarification to prospective microbusiness applicants regarding the premises requirements for microbusinesses engaging in manufacturing and cultivation activities. The Bureau determined that it was necessary to specify that areas for manufacturing and cultivation must be separated from the areas for distribution and retail. The Bureau determined that this was necessary after conducting site visits of various licensed premises and determining that certain aspects of manufacturing and cultivation such as the need to keep a clean environment for manufacturing and the application of

pesticides in cultivation areas necessitated specifying that these areas need to be separated from the other areas of the premises.

To assure that applicants are identifying all commercial cannabis activities they wish to engage in, subsection (b) clarifies that an applicant for a microbusiness license must identify all commercial cannabis activities it wishes to engage in on its application. This requirement is necessary because it aids the Bureau's processing of the application. It also helps the Bureau maintain accurate records and ensures applicants are qualified for the type of license they are applying for.

Subsection (c) is necessary to assure that all applicants applying for the requested commercial cannabis activities are supplying consistent information to the licensing entities for review. This requirement is necessary because it aids the Bureau's processing of the application. It also helps the Bureau maintain accurate records and ensures applicants are qualified for the type of license they are applying for.

Business and Professions Code section 26001, subsection (ap) defines premises as "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." That section further provides that a premises shall be a "contiguous area" and shall only be occupied by one licensee. Subsection (d) is necessary to clarify that, despite conducting multiple commercial activities at one location, a microbusiness license must be tied to one licensed premises.

A microbusiness licensee may engage in multiple commercial cannabis activities. Accordingly, the Bureau recognizes the importance of all licensees complying with the regulatory framework that applies to each requested commercial cannabis activity. To that end, subsection (e) clarifies that microbusinesses that engage in distribution activities must comply with the appropriate distribution regulations; microbusinesses that engage in retail activities must comply with the appropriate retail regulations; microbusinesses that engage in cultivation activities must comply with the appropriate cultivation regulations; and microbusinesses that engage in manufacturing activities must comply with the appropriate manufacturing activities. This requirement is necessary to assure that all licensees that are conducting the same commercial cannabis activities are conducting their activities in a consistent manner. Further, the proposed subsection now also clarifies that licensees that are engaged in cultivation must comply with applicable sections of Title 3, Division 6 of the California Code of Regulations including specifically section 6674, which requires that a warning sign relating to the storage of pesticides be posted. This addition is necessary so that licensees are aware of requirements for pesticide use and ensures that the proper signage will be posted to ensure the health and safety of employees of the licensee, contractors, and Bureau staff that are on the premises for inspections.

Subsection (f) recognizes that microbusiness licensees may seek to change the commercial cannabis activities they are conducting at their licensed premises. Accordingly, this subsection is necessary to clarify that when a licensee seeks to engage in additional commercial cannabis activities after the license is issued, they must submit a new application identifying the requested changes and providing all information required for an application for the commercial cannabis activity they wish to conduct. This subsection will aid the Bureau's processing of microbusiness

applications. It also assures the Bureau is able to maintain accurate records and ensures applicants are qualified for the type of license they are applying for.

Subsection (g) clarifies that a suspension or revocation of a microbusiness license affects all commercial cannabis activities allowed pursuant to the license. This subsection is necessary to clarify that a microbusiness license is not severable for the purposes of enforcement.

#### Proposed section 5502

This proposed section defines the requirements of the cultivation plan for prospective licensees who wish to engage in cultivation activities. This proposed section is necessary to specify the cultivation plan requirements for such licensees, and to assure that all prospective licensees who wish to cultivate provide consistent information to the licensing entities.

Proposed subsection (a) requires a diagram of the premises in the cultivation plan, which must outline the specific purpose of each cultivation area featured in the plan. For convenience of the prospective licensees, this section also reiterates that the total area of all cultivation activities must be less than 10,000 square feet, as required by MAUCRSA. The cultivation plan requirements outlined by this subsection allow the Bureau to ensure compliance with the licensing requirements, which are being implemented to ensure public safety and environmental protection.

Proposed subsection (b) provides clarification on the determination of canopy. This information is critical for the Bureau's inspectors, to assure they have accurate information regarding how cultivation facilities are arranged. It also assures that all prospective microbusiness cultivators provide consistent information to the Bureau for evaluation.

Proposed subsection (c) requires a lighting diagram, including the location of lights and the maximum wattages used. This is necessary for the Bureau to ensure the appropriate license type is being issued to the applicant, and for enforcing the requirements of the specific licensee.

Proposed subsection (d) requires a pest management plan, including listing all pesticides used on cannabis at the site and any integrated pest-management protocols the applicant plans to implement. This portion of the cultivation plan is necessary for the Bureau to ensure the environment is protected from the illegal use of pesticides and ensures the licensee has a plan for handling potential pest introductions and infestations. The Bureau's requirement is consistent with the Department of Food and Agriculture's requirements. The Department of Food and Agriculture's review on the Impacts of Cannabis Cultivation discusses the risk to the environment of improper pesticide use and storage and the Department determined it was necessary to know about a licensee's pesticide use and storage plans in order to transition them into a regulated environment.

Proposed subsection (e) requires applicants to submit their cannabis waste procedures. The Bureau's requirement is consistent with the Department of Food and Agriculture's requirements. This information will help the Bureau ensure compliance with its licensing requirements, regardless of whether a cultivator disposes of waste off-site or on-site. This subsection also ensures licensees are complying with existing waste disposal laws and regulations.

#### Chapter 5: Cannabis Events

Under MAUCRSA, state temporary event licenses may be issued, authorizing onsite cannabis sales to, and consumption by, persons 21 years of age or older at a county fair or district agricultural association, provided that certain conditions are met, including that all participants are licensed. The proposed regulations would specify that an applicant for a temporary cannabis event license must first obtain a cannabis event organizer license by submitting an application containing certain information. The proposed regulations would further specify that an application for a temporary cannabis event license must be submitted no less than 60 days prior to the date for which the license is sought and that the license be valid for no more than 4 consecutive days. The proposed regulations would further specify what must be provided with the application including a diagram of the layout of the event with a detailed description of where cannabis sales and consumption will occur, and a list of all licensees that will be providing onsite sales of cannabis goods at the event.

The proposed regulations would specify that all sales of cannabis at a temporary cannabis event may only be performed by a licensed retailer or microbusiness authorized to sell cannabis to retail customers and all cannabis goods to be sold at the event must be transported to the event by a licensed distributor. The proposed regulations would further clarify that cannabis goods sold at a temporary event must comply with the applicable laws and regulations including testing, packaging, and labeling requirements. The proposed regulations would also provide specific requirements for onsite consumption at a temporary cannabis event including that access to the onsite consumption area be limited to persons 21 years of age or older and that cannabis consumption not be visible from any public place or non-age-restricted area.

#### Proposed section 5600

Business and Professions Code Section 26200, subsection (e) allows for the issuance of a state temporary event license authorizing onsite cannabis sales to, and consumption by, persons 21 years of age or older at a county fair or district agriculture association event. The statute provides a number of requirements that apply to these licensed events. However, the statute does not provide the requirements or the process for applying for and obtaining a state temporary event license. This proposed regulation is intended to provide a portion of the process for implementing Section 26200, subsection (e).

Proposed subsection (a) of the proposed regulation clarifies that in order to obtain a temporary event license, the applicant must first obtain a cannabis event organizer license. The Bureau is required by the Act to collect certain pieces of information from every applicant for any license. Additionally, license applicants are required to comply with certain requirements such as fingerprinting and a background check. The Bureau has also determined that a temporary event license will be required for each specific event. Rather than requiring the applicant to provide applicant information each time a temporary event license is sought, the Bureau has determined that it will be more effective to only require the applicant to provide the majority of the required applicant information during the Cannabis Event Organizer license rather than each time the applicant plans to hold a temporary event. The following subsections of the proposed regulation provide the requirements that apply to cannabis event organizer licensees.

Proposed subsection (b) of the proposed regulation clarifies that a licensed cannabis event organizer is required to comply with a number of regulations which apply to all Bureau licensees.

Business and Professions Code Section 26200, subsection (e) requires that the activities under a licensed cannabis temporary license are consistent with the regulations promulgated by the Bureau. As a Bureau licensee, a cannabis event organizer is required to comply with all requirements for all Bureau licensees. Many of these requirements are found in chapter 1 of the proposed regulations. However, there are some requirements found in regulations that would not logically apply to a cannabis event organizer licensee. For example, proposed sections 5001 and 5002 contain the requirements for a temporary and annual application respectively. Since the specific application requirements for a cannabis event organizer can be found in this proposed section, an applicant for an event organizer license would not need to follow the requirements in section 5001 and 5002. This proposed subsection identifies which regulation sections in chapter 1 that an event organizer applicant does not have to comply with. The Bureau has clarified the proper section numbers that are applicable to event organizers.

Proposed subsection (c) of the proposed regulation clarifies that a cannabis event organizer license does not authorize a cannabis event organizer to engage in any other commercial cannabis activity aside from organizing cannabis events. The purpose of this section is to eliminate any confusion as to whether a cannabis event organizer licensee may engage in other commercial cannabis activity under the event organizer license.

Proposed subsection (e) is necessary for application processing. Permitting online submission provides flexibility for the applicant to submit the application from anywhere in the State. The State of California is very large and requiring an applicant to physically turn in hard copies in person in Sacramento would be tremendously burdensome on the applicant and the burgeoning industry. Permitting applicants to submit electronically also helps the bureau process the applications in an effectively and timely fashion.

Proposed subsection (f) would specify that applicants that wish to apply online must first register for a user account by doing the following: 1) creating a user name, password, and security question and answer; 2) provide an email address; and 3) provide the owner's first and last name, primary phone number, social security number or individual taxpayer identification number, date, and mailing address. These items are necessary to identify the applicant.

Proposed subsections (g)(1) through (g)(3) would specify that the applicant must provide the name of the applicant, the DBA of the applicant, and lastly must pay the application fee in proposed section 5014. These items are necessary to identify the applicant's legal business identity and to clarify that payment of the application fee is necessary at the time the application is submitted.

Proposed subsections (g)(4) would allow an owner that is serving or has previously served in the military to disclose their service and receive expedited application processing if the owner can provide evidence of honorable discharge. This optional disclosure applies to all Department of Consumer Affairs boards and bureaus, which includes the Bureau, through Business and Professions Code section 115.4 and is included here for clarity.

Proposed subsections (g)(5) and (g)(6) would require the applicant to the license types, license numbers, the date the license was issued, and which licensing authority issued the license for any licenses the applicant holds from the Bureau and all other state licensing authorities. The applicant would also be required to disclose whether the applicant has been denied a license or had one

revoked or suspended by the Bureau or any other state cannabis licensing authority. These subsections are necessary to ensure that the granting of a license would not violate the provision in Business and Professions Code section 26053, subdivision (b) prohibiting a person that holds a state testing laboratory license from receiving any other type of cannabis license. It is also necessary for the Bureau to know if a license has ever been denied, revoked, or suspended as these could be grounds for denial of the application.

Proposed subsection (g)(7) through (g)(10) would require specific contact information for the cannabis business including the mailing address, the telephone number for the premises, the website address, and email address. These items are necessary to contact the premises. Further, they are necessary for monitoring the cannabis business once it is licensed to ensure the business is complying with laws and regulations.

Proposed subsection (g)(11) would require an applicant to provide contact information for the applicant's designated primary contact person including the name, title, telephone number, and email address if applicable. This information is necessary so that the Bureau knows who to contact regarding questions or issues with an application or license.

Proposed subsections (g)(12) through (g)(18) would require the applicant to provide the business' federal employer identification number, the business' organizational structure, the business-formation documents, a list of all fictitious business names the applicant is operating under, the certificate of qualification if the applicant is a foreign corporation, financial information, and, as required by Business and Professions Code section 26051.5, subdivision (d), a list of every individual who has a financial interest. If a business is held in trust a copy of the trust. This information is necessary to identify the applicant and to enable to Bureau to determine how the commercial cannabis business will be organized and to ensure that all owners as defined in proposed section 5003 and all financial interest holders in proposed section 5004 are identified.

In order for the Bureau to conduct a thorough and effective evaluation of an applicant's submission, to ensure the applicant is a bona fide and qualified applicant under the law, the Bureau must receive specific information from the applicant. The information contained in proposed subsection (g)(19)(A) through (g)(19)(N) are necessary for the Bureau to accurately determine and verify the true identity of individual owners as defined in proposed section 5004.

Under Business and Professions Code sections 144 and 26051.5, subsection (a)(1) the Bureau is required to request and conduct criminal history record checks on all applicants. The information contained in proposed subsection (g)(L)(i) – (vi) clarifies what information is needed by the Bureau in order to gather all pertinent criminal history information in order to properly conduct the statutorily mandated checks.

Proposed subsection (c)(20) would require that an applicant with 20 or more employees attest that the applicant has entered into a labor peace agreement and will abide by the terms of the agreement or, if they have not yet entered into such an agreement, then provide a notarized statement indicating that the applicant will enter into and abide by the terms of a labor peace agreement within 30 days of licensure. This subsection is necessary to fulfill the statutory requirements of Business and Professions Code section 26051.5(a)(5). The Bureau has further clarified the statutory requirements by requiring the applicant to either provide the labor peace agreement or a

notarized statement that they will enter into one. The Bureau determined that the additional requirements were necessary to ensure that applicants are aware of the requirement and have taken steps to fulfill the requirement. This is necessary to protect the public, which includes workers in the cannabis industry, is the highest priority under the Act so the Bureau must ensure that applicants are prepared to comply with labor standards and protect their employees' rights. As the act does not require specific provisions within the agreement, the Bureau is no longer requesting a copy.

Proposed subsection (g)(21) would require that applicant's provide a limited waiver of sovereign immunity if applicable as required under proposed section 5009. This requirement is repeated in the application for clarity so that applicants may have all the required materials for an application listed in one section.

#### Proposed section 5601

Business and Professions Code Section 26200, subsection (e) allows for the issuance of a state temporary event license authorizing onsite cannabis sales to, and consumption by, persons 21 years of age or older at a county fair or district agriculture association event. The statute provides a number of requirements that apply to these licensed events. However, the statute does not provide the requirements or the process for applying for and obtaining a state temporary event license. This proposed regulation is intended to provide a portion of the process for implementing Section 26200, subsection (e).

Subsection (a) of the proposed regulation clarifies the authority granted to a licensee who holds a temporary cannabis event license. This proposed subsection specifies that a licensee who holds a temporary cannabis event license may hold a temporary cannabis event where the onsite sale and consumption of cannabis goods is authorized at the location indicated on the license during the dates indicated on the license. The purpose of this proposed subsection is to provide a general description of what activities a temporary cannabis event licensee may engage in. Additionally, the proposed subsection indicates that the activities under a temporary cannabis event license are limited to occurring at the locations and during the dates indicated on the license. The purpose of this proposed subsection is to eliminate any confusion as to where and when a temporary cannabis event licensee may hold a temporary cannabis event.

Proposed subsection (b) clarifies that only a licensed cannabis event organizer may obtain a temporary cannabis event license. The Bureau has also determined that a temporary event license will be required for each specific event. Rather than requiring the applicant to provide applicant information each time a temporary event license is sought, the Bureau has determined that it will be more effective to only require the applicant to provide the majority of the required applicant information during the cannabis event organizer license rather than each time the applicant plans to hold a temporary event. A cannabis event license is valid for up to one year. However, a temporary cannabis event license is only valid for the dates of the temporary cannabis event. The Bureau has determined that it will be most effective to require the cannabis event organizer obtain an organizer license which may be renewed annually and then obtain a separate temporary cannabis event license for each event the organizer plans to hold. This would eliminate the need for the submission of duplicative information. Information for the event organizer would be



collected at the time of the event organizer application and information for the specific events would be collected at the application for each temporary cannabis event license.

Proposed subsection (c) clarifies that a violation of the requirements for a temporary cannabis event may result in disciplinary action against the licensee responsible for the violation as well as the licensed cannabis event organizer. The purpose of this proposed subsection is to put the event organizer on notice that they are responsible for ensuring that all activities occurring at the temporary cannabis event comply with the requirements found in the regulations. This will hopefully result in fewer violations of the rules as the cannabis event organizer will be motivated to make an extra effort to ensure that all licensees are following the rules during the temporary cannabis event.

Proposed subsection (d) clarifies that a temporary cannabis event license may only be obtained for a single day or consecutive days. The Bureau has determined that holding a temporary cannabis event on non-consecutive days would require the event organizer to obtain separate temporary event licenses. Additionally, this proposed subsection limits temporary cannabis events to 4 consecutive days. The Bureau has determined that 4 days is the maximum amount of days that will be allowed for a temporary event license.

Proposed subsection (e) requires that an applicant for a temporary cannabis event submit the application to the Bureau at least 60 days prior to the event. The purpose of this proposed subsection is to provide the Bureau with enough time to conduct a comprehensive review of the application prior to the date of the event. The Bureau has determined that 60 days prior to the event is an appropriate amount of time.

Proposed subsection (f) clarifies where a temporary cannabis event may take place. Business and Professions Code Section 26200, subsection (e), which provides the authority for the temporary event license, states that temporary event licenses authorize onsite cannabis sales and consumption by person 21 or older at a county fair or district agricultural association event. The purpose of this proposed subsection is to clarify the meaning of the terms “county fair or district agricultural association event,” as used in the statute. The Bureau has interpreted these terms to mean that the temporary cannabis events must take place on the specific locations of the county fairs or district agricultural association events.

Proposed subsection (g) prohibits the issuance of a temporary cannabis event license if the premises to be licensed is licensed for the sale of alcohol or tobacco. Business and Professions Code Section 26200 requires that the location of the temporary cannabis event does not allow the sale or consumption of alcohol or tobacco on the premises. This proposed subsection restates this requirement for clarity.

Proposed subsection (h) provides the requirements for an application for a temporary cannabis event license. The purpose of this proposed subsection is to clarify what information an applicant must submit as part of the application. Proposed subsection (h)(1)-(h)(4) requires the applicant to provide identifying information such as the name of the applicant, the license number for each license held by the applicant, the address of the location of the event, and the name of the event. All of this information is required so the Bureau can identify the applicant and the event that they are seeking to license. Proposed subsection (h)(5) requires the applicant to provide a diagram of

the physical layout of the event, including the locations where cannabis goods will be sold and consumed. This information is important so that the Bureau can use the diagram to ensure that the applicant will be complying with all of the requirements pertaining to the physical layout of the event. Proposed subsection (h)(6) requires the applicant to provide the dates of the event for which they are seeking a temporary cannabis event license. This information is important so that the Bureau will know what dates the license will be issued for. Proposed subsection (h)(7) requires the applicant to provide contact information for the designated primary contact for the temporary event license. This information is important so that they Bureau will be easily able to communicate with the licensee. Proposed subsection (h)(8) requires the applicant to provide documentation of the approval from the local jurisdiction to hold the temporary cannabis event. Business and Professions Code Section 26200 requires authorization from the local jurisdiction in order to obtain a temporary cannabis event license from the Bureau. Proposed subsection (h)(9) requires the applicant to provide a list of all of the licensed retailers who will be engaging in the sale of cannabis goods at the event. This information is important in order for the Bureau to properly verify that all retailers who are planning on providing cannabis goods for sale at the event are properly licensed by the Bureau to engage in this activity. Proposed subsection (h)(10) requires the applicant to attest that the information is true. Business and Professions Code Section 26051.5 requires that any applicant for a license from the Bureau provide this type of attestation.

Proposed subsection (i) requires a temporary cannabis event licensee to provide notice to the Bureau if the list of retailers who will be selling cannabis goods at the event changes after the application is submitted. This proposed subsection requires that the licensee provide this information to the Bureau at least 72 hours before the event begins. This information is required for the Bureau to be able to accurately identify the retailers that will be participating in the event and for the Bureau to be able to ensure that all retailers of cannabis goods at the event are properly licensed.

Proposed subsection (j) requires temporary cannabis event licensees to hire or contract for security personnel to be present at the temporary cannabis event premises at all times cannabis goods are sold or being consumed. This proposed subsection is intended to increase public safety by requiring that security personnel be present at the temporary cannabis event. The presence of security personnel is expected to reduce the risk of theft and other crimes that may take place during these events.

Proposed subsection (k) requires the temporary cannabis event licensee to post signs indicating that areas in which cannabis goods are sold or consumed are limited to persons 21 or older. The purpose of this proposed subsection is to reduce the exposure of minors to cannabis goods by clearly indicating to the public that only certain persons can enter these areas and preventing minors from accessing these areas.

Proposed subsection (l) requires all licensees to comply with the cannabis waste disposal requirements found in the regulations. The waste disposal requirements already apply to all licensees. However, the requirements are restated in this proposed subsection to clarify that the waste disposal requirements apply to temporary cannabis events. Additionally, this proposed subsection allows a cannabis event organizer to arrange for or contract for the proper disposal of all cannabis waste generated by the temporary cannabis event. This proposed subsection provides for an option to dispose of cannabis waste generated at the event collectively rather than requiring

each individual licensee to dispose of cannabis waste individually. The purpose of providing this option was to allow for more efficient methods of waste disposal.

Proposed subsection (m) requires all licensees that are involved in the temporary cannabis event to comply with the record keeping requirements found in the Act and the regulations. All licensees are already required to comply with record keeping requirements. This requirement is restated in this proposed subsection to clarify that the record keeping requirements also apply to temporary cannabis events.

#### Proposed section 5602

Business and Professions Code Section 26200, subsection (e) allows for the issuance of a state temporary event license authorizing onsite cannabis sales to, and consumption by, persons 21 years of age or older at a county fair or district agriculture association event. The statute provides a number of requirements that apply to these licensed events. However, the statute does not provide the specific requirements for the sale of cannabis goods at these temporary cannabis events. This proposed regulation is intended to provide the specific requirements for sale of cannabis goods at temporary cannabis events.

Proposed subsection (a) indicates that only persons 21 or older may purchase cannabis goods at a temporary cannabis event. This requirement is found in the Act. The requirement is restated here for clarity. Additionally, the proposed subsection requires a licensee who is selling cannabis goods at a temporary cannabis event to verify the age and identity of the customer. The purpose of this proposed subsection is to limit the exposure of cannabis to minors by ensuring that cannabis goods sold at temporary cannabis events are only sold to persons who are of the proper age.

Proposed subsection (b) requires that all sales of cannabis goods occur in the retail area as identified in the diagram provided to the Bureau as part of the temporary cannabis event application. This is important in order for the Bureau to be able to ensure that all sales of cannabis goods at temporary events comply with the requirements. If cannabis goods sales are allowed to occur in areas outside of the designated retail area, it would be much more difficult for the Bureau and the event organizer to ensure that all sales comply with the requirements.

Proposed subsection (c) requires that all sales of cannabis goods at a temporary cannabis event be conducted by a licensed retailer or a microbusiness that is authorized to engage in the retail sale of cannabis. This subsection is necessary to clarify who can engage in the sale of cannabis goods at a temporary cannabis event. The Bureau has determined that since licensed retailers have been deemed to meet the requirements to sell cannabis goods to customers on their licensed premises, only licensed retailers may sell at a temporary cannabis event. Allowing licensed retailers, who have already been approved to engage in retail sales, to sell at temporary events is more economical than requiring persons who plan to sell at the event to undergo a separate licensing process for each individual event. The proposed subsection also clarifies that a licensed cannabis event organizer may sell cannabis goods at a temporary cannabis event only if the event organizer also holds a retail license. This is intended to eliminate any confusions as to when an event organizer may or may not engage in the sale of cannabis goods at a temporary cannabis event.

Proposed subsection (d) requires that all sales of cannabis goods at a temporary cannabis event take place during the dates indicated on the temporary event license. Additionally, this proposed subsection requires that all sales of cannabis goods at a temporary event comply with the hours of operation requirements in proposed section 5403. This provision is important because the temporary event license only authorizes the sale of cannabis goods during the specific period provided on the license. Any sales that occur outside of that time would be unlicensed. Additionally, this proposed subsection clarifies that the hours of operation requirements that apply to the retail sale of cannabis would also apply to sales that occur during a temporary cannabis event.

Proposed subsection (e) prohibits the sale and consumption of alcohol or tobacco on the temporary cannabis event premises. This requirement is found in Business and Professions Code Section 26200. The requirement is restated in this proposed subsection for clarity.

Proposed subsection (f) requires that all cannabis goods for sale at the temporary cannabis event comply with the requirements for the transportation of cannabis goods found in the act and the regulations. The purpose of this proposed subsection is to clarify that transportation requirements apply to cannabis goods being transported to temporary cannabis events.

Proposed subsection (g) requires that all cannabis goods that are not being used for display at a temporary cannabis event be stored in a secure, locked container. The proposed subsection also requires that cannabis events being stored at a temporary cannabis event not be left unattended. However, licensees may share the locked container, thereby allowing licensees to save on costs by reducing the need for multiple containers and multiple persons monitoring the containers. The purpose of this proposed subsection is to reduce the risk of theft or diversion of cannabis goods. By limiting the amount of cannabis goods that are readily available and requiring cannabis goods to be stored in a locked container, the risk of theft of cannabis goods during the event will be reduced.

Proposed subsection (h) requires that all cannabis goods for sale at the temporary cannabis event comply with the requirements for the laboratory testing of cannabis goods found in the act and the regulations. The purpose of this proposed subsection is to clarify that laboratory testing requirements apply to cannabis goods being sold at temporary cannabis events.

Proposed subsection (i) requires that all cannabis goods for sale at the temporary cannabis event comply with the track and trace system requirements found in the act and the regulations. The purpose of this proposed subsection is to clarify that the track and trace system requirements apply to cannabis goods being sold at temporary cannabis events.

Proposed subsection (j) requires that all cannabis goods for sale at the temporary cannabis event comply with the requirements for the display of cannabis goods found in the act and the regulations. The purpose of this proposed subsection is to clarify that the display requirements apply to cannabis goods being sold at temporary cannabis events.

Proposed subsection (k) requires that all cannabis goods for sale at the temporary cannabis event comply with the requirements for exit packaging as found in proposed section 5413 and the Act.

The purpose of this proposed subsection is to clarify that exit packaging requirements apply to cannabis goods being sold at temporary cannabis events.

Proposed subsection (l) requires that all cannabis goods returned by customers at the temporary cannabis event comply with the requirements for customer returns of cannabis goods found in the act and the regulations. The purpose of this proposed subsection is to clarify that the return requirements apply to cannabis goods being sold and returned at temporary cannabis events.

Proposed subsection (m) requires that all cannabis goods for sale at the temporary cannabis event comply with the daily sales limits found in the act and the regulations. The purpose of this proposed subsection is to clarify that the daily sales limits apply to cannabis goods being sold at temporary cannabis events.

Proposed subsection (n) requires that all cannabis goods for sale at the temporary cannabis event comply with the requirements for the laboratory testing of cannabis goods found in the act and the regulations. The purpose of this proposed subsection is to clarify that laboratory testing requirements apply to cannabis goods being sold at temporary cannabis events.

Proposed subsection (o) clarifies that the licensed event organizer may also be held responsible for any violations by the retailers participating in the event. The purpose of this proposed subsection is to reduce the risk of violations by motivating the licensed event organizer to ensure that the retailers who are participating in the event comply with all the rules. This is likely to be effective as the event organizer will likely be present at the event and be in good position to monitor and correct the behavior of the retailers who are participating.

Proposed subsection (p) prohibits an event organizer from receiving compensation, that is tied to the sale of cannabis goods, from a retailer who is participating in the temporary event. The purpose of this proposed subsection is to prevent an event organizer from unwittingly engaging in the unlicensed sale of cannabis goods. An organizer who receives compensation based on the amount of cannabis goods sold by a retailer may, at some point, be considered to be engaging in the sale of cannabis goods themselves. In order to prevent this from happening compensation based on the sale of cannabis goods is prohibited.

## Chapter 6: Testing Laboratories

Under MAUCRSA, all cannabis goods must meet certain health and safety standards before they can be sold to consumers. To ensure that cannabis goods meet those standards, a representative sample of the cannabis goods must be tested by a licensed testing laboratory. The proposed regulations would provide requirements for the minimum standards for “passing” the statutorily required testing of cannabis goods for retail sale at retailers or microbusinesses. The regulations would also provide the minimum laboratory-operation requirements, which would include requirements such as sampling procedures, personnel qualifications, standard operating procedures, and recordkeeping requirements. These proposed regulations would set forth action levels, threshold values that provide the criterion for determining whether a cannabis goods sample passes or fails an analytical test, that the Bureau considers to be both protective of public health and achievable by the cannabis industry. The proposed exposure limits are necessary to ensure, to the extent feasible, that no cannabis consumer will suffer material impairment of health from

exposure to contaminants in cannabis goods. The action levels proposed are for chemicals, foreign material, heavy metals, and microbiological impurities.

Article 1 of the proposed regulations would make clear the applicable meaning of key statutory terms and other terms used within the regulations. These definitions would include terms such as “action level,” “certificate of analysis,” “foreign material,” and “quality control sample.” The Bureau has removed the definition of “field duplicate sample” as the term is no longer used.

Article 2 of the proposed regulations would provide the licensing requirements that are specific to testing laboratories such as proof of ISO/IEC 17025 accreditation, and requirements for obtaining a provisional license if an applicant meets all requirements for licensure apart from the ISO/IEC 17025 accreditation.

Article 3 of the proposed regulations would set forth minimum requirements for the sampling of cannabis goods. These requirements would include: what must be included in a testing laboratory’s sampling standard operating procedures; general sampling requirements such as requirements that the testing laboratory that collects the sample must also perform the required testing; and how samples are to be stored. The proposed regulations would specify that a sample field log must be used to record information related to the sampling. The proposed regulations would also clarify requirements for sampling from a harvest batch and from a cannabis product batch and would require testing laboratories to implement a chain of custody protocol. Additionally, the proposed regulations would specify that a testing laboratory may only accept and analyze samples obtained from a distributor for state required testing when there is an accompanying chain of custody form

Article 4 of the proposed regulations would provide the minimum standards for laboratory standard operating procedures, including procedures for laboratory processes, analytical methods, and testing methodologies. The regulations would also set out what the Bureau considers to be acceptable ways to validate a “nonstandard, amplified, or modified” test method.

Article 5 of the proposed regulations would specify what the laboratory must test for and when testing laboratories must begin testing for certain things. The proposed regulations would specify the standards for the analyses of homogeneity of solid edible cannabis products, moisture content and water activity, residual solvents and processing chemicals, pesticides, microbiological impurities, mycotoxins, foreign material, heavy metals, cannabinoids, and terpenoids. The regulations would also set forth general reporting requirements and require testing laboratories to generate a certificate of analysis for each sample of a batch of cannabis goods that it tests; containing necessary information to identify the testing laboratory, identify the sample, identify the test methods, and provide the test results.

Article 6 of the proposed regulations would provide requirements for post-testing procedures. These requirements would include a requirement that a batch may not be retested following a failed testing unless it has gone through a remediation process, constraints related to remediation, and requirements for retention of the testing sample.

Article 7 of the proposed regulations would set requirements for the minimum components of a quality-assurance program and what must be contained in the quality-assurance manual. The proposed regulations would require the use of laboratory quality control samples which include:

method blank, continuing calibration verification, laboratory replicate sample, and matrix spike sample or matrix spike duplicate sample. The proposed regulations would also clarify how to calculate the limit of detection and limit of quantitation and would require licensees to generate a data package for each batch of samples the laboratory analyzes. The proposed regulations would also require proficiency testing, clarify what a satisfactory and unsatisfactory proficiency test is, and require an annual internal audit.

Article 8 of the proposed regulations would specify laboratory employee education and experience requirements. Specifically, the regulations would require that a testing laboratory employ a supervisor or management employee who is responsible for overseeing and directing the scientific methods of the laboratory, ensure the laboratory achieves and maintains quality standards of practice, and provide training to laboratory employees. The proposed regulations would also require that laboratory analysts and samplers meet certain education and experience standards.

Article 9 of the proposed regulations would require testing laboratories licensees to maintain specific records.

The proposed regulations in Chapter 6 are necessary to implement and clarify the statutory requirements for testing laboratories. The regulations specific to testing labs are based on scientific resources, methods, and theories; generally accepted practices in the laboratory industry; information related to cannabis goods testing in other states; standards for testing any product; public comment; and documents relied upon numbers 1 through 13, 15, 17, 28 through 34, 36 through 42, 44 through 64, 66 through 68, 70 through 76, 80 through 83, 87 through 102, and 105 through 113. The required tests and action levels are consistent with the MAUCRSA statute and information related to the level of health risk when the analytes are consumed.

Specifically, the action levels for pesticides contained in proposed section 5719 are based on the guidelines provided by the Department of Pesticide Regulation, the state agency responsible for regulating the use of pesticides in California. Other action levels are consistent with information from the American Herbal Pharmacopeia, the Cannabis Safety Institute, and other widely accepted guidelines. The standards for testing methods are consistent with guidance for methods of analysis from the United State Food and Drug Administration, the United States Pharmacopeia - National Formulary, and the AOAC International. The widely accepted standards from these organizations are used both in the United States and internationally. Sampling and chain of custody standards are necessary to ensure that sampling is done consistently amongst the various labs within the state, to ensure the accuracy of the testing, and to ensure that the sample has not been tampered with. The personnel requirements are necessary to ensure that the people testing the product have the correct skills and experience for the testing to be valid. These requirements were drafted to be consistent with laboratory job postings for similar positions, the ISO/IEC 17025:2005 standards for all laboratory personnel as licensees are to obtain ISO/IEC 17025 accreditation, and the State of California requirements for research and environmental scientist classifications.

Business and Professions Code section 26100 provides that the Bureau shall develop criteria to determine batch testing. Proposed regulation section 5715 provides criteria for batch testing beginning January 1, 2018. Testing for potency, contaminants with a high public health risk, and contaminants the industry is largely already testing for will begin immediately; followed by testing for contaminants with comparatively moderate health risks and that are not largely being tested

for; and finally, by the end of 2018, contaminants with comparatively minor health risks and seldom testing for at this time. This will protect the public while allowing the industry to adjust to new testing requirements so that product will be available to patients and adult-use customers.

#### Proposed sections 5705, 5707, 5708

The Bureau proposes to remove the requirement for testing laboratories to collect and analyze a field duplicate sample. The need to collect and analyze a field duplicate, in addition to the primary sample, creates a financial burden on both the laboratory performing the compliance testing, as well as the entity that owns the product. The requirement to collect 0.35% of a harvest batch and the number of sample units for a cannabis product batch in the regulations will provide the testing laboratories with enough of a representative sample to complete all the required regulatory compliance testing. Section 5730, requires the laboratories to include quality control samples in every analytical batch. It is unnecessary to require an additional quality control sample, the field duplicate sample, as the number of quality control samples required are sufficient to measure accuracy, precision, contamination, and matrix effects. Furthermore, the subsequent storing of unused field duplicate samples in the laboratory also requires a significantly large capacity for storage. The regulations have been updated to reflect this change throughout by removing the references to primary and field duplicate sample, and adding a reference to representative sample.

#### Proposed section 5718

The Bureau proposes to add subsection (c) that specifies that the laboratory shall establish a limit of quantification (LOQ) of 1.0 µg/g or lower for all Category I Residual Solvents or Processing Chemicals. Although the use of these processing chemicals at any level is not permitted, as they are not specifically allowed for production of cannabis products, it is necessary to establish a minimum level that all labs must be able to quantitate accurately. Cannabis test methods are not standardized, but requiring the laboratories to achieve a minimum limit of quantification will provide equilibrium between the laboratories reporting abilities. This provision will also prevent licensed testing laboratories from having higher LOQs and passing samples that would fail from a laboratory with lower LOQs.

#### Proposed section 5719

The Bureau proposes to add subsections (a) – (c) requiring that the laboratory use a minimum of 0.5 grams of the representative sample to test for residual pesticides. This requirement is necessary because cannabis test methods are not standardized, but requiring the laboratories to use the same minimum amount of sample to analyze for residual pesticides will provide equilibrium in sample analysis between the various laboratories. The laboratory will also be required to establish a limit of quantification (LOQ) of 0.10 µg/g or lower for all Category I Residual Pesticides. Although use of these pesticides at any level is not permitted, as they are not allowed for use in the cultivation of cannabis, it is necessary to have a minimum level that all labs must be able to quantitate accurately. Cannabis test methods are not standardized, but requiring the laboratories to achieve a minimum limit of quantification will provide equilibrium between the laboratories reporting abilities. This provision will also prevent licensed testing laboratories from having higher LOQs and passing samples that would fail from a laboratory with lower LOQs.



The Bureau also proposes to add a requirement that requires that the laboratories analyze the Category II Pesticide, Malathion. Category II Pesticide residues may be present as a result of additional ingredients. The purpose for including Malathion and the proposed action level is based on the Department of Pesticide Regulation (DPR) September 18, 2017 Memorandum recommendation to the Bureau.

#### Proposed section 5726

The Bureau proposes to add language to subsection (d). This includes requiring the laboratories to indicate an overall “pass” or “fail” for the entire batch on the certificate of analysis (COA). This is necessary to ensure that the requester of the regulatory compliance testing is able to accurately interpret the results. If the overall “pass” or “fail” for the entire batch is not listed on the COA, cannabis and cannabis products results may inadvertently be misinterpreted and failed batches may enter the retail market. If failed batches enter the retail market this may pose a significant public health safety risk.

Proposed subsection (d)(5)(A) through (C) requires the laboratories to indicate the cannabinoid or terpenoid label content as printed on the label, the laboratories measured results, and the difference between the label claim and the measured result on the COA. The purpose of this requirement is to ensure that test results are being properly reported pursuant to sections 5724 and 5725. Requiring laboratories to provide this information on the COA will also provide necessary information if relabeling is required. In the event that cannabis or cannabis products need to be relabeled, the actual measured amount of cannabinoid or terpenoid is listed on the COA, thus the appropriate number for relabeling is readily available.

#### Proposed section 5727

The Bureau proposes to add subsection (b)(1) requires a harvest batch or cannabis product batch that has only failed for nonconformance with the labeled content to be relabeled at the distribution premises without any additional processing and additional regulatory compliance testing. This requirement is necessary to allow for harvest batches or cannabis product batches to be relabeled without additional redundant analyses. Additional processing of batches is prohibited, as supplementary processing may introduce contaminants, and the entire batch would require re-sampling and re-testing.

#### Chapter 7: Enforcement

The proposed regulations would specify the enforcement provisions applicable to all Bureau licensees. Specifically, the proposed regulations would provide that the Bureau and its representatives shall have full access to inspect and enter onto any premises licensed by the Bureau. The proposed regulations would specify that the Bureau may provide a notice to comply to a licensee for violations observed during the inspection and would specify what a licensee may do in response to the notice. The proposed regulations would provide that the Bureau may issue citations containing orders of abatement and fines against a licensee for any acts or omissions which are in violation of MAUCRSA or its implementing regulations. The proposed regulations would also set forth the procedure for contesting and complying with citations issued by the Bureau.

The proposed regulations would specify the criteria for use of minor decoys including, that the decoy be under 20 years of age. The proposed regulations would specify that a license may not be held at some premises where certain attire and conduct is permitted such as employing a person to conduct the sale of cannabis goods while such person is unclothed. The proposed regulations would further clarify that live entertainment is permitted on a licensed premises so long as certain conditions are met.

Under the MAUCRSA, licensees may be disciplined for failure to comply with any of the requirements for licensure that are in the Act itself or in the regulations. The proposed regulations would specify the additional grounds for discipline, such as, failure to take reasonable steps to correct objectionable conditions. The proposed regulations would also specify the procedures for disciplinary actions and would specify that the Bureau may petition for an interim order to suspend a license or impose licensing restrictions in certain cases such as when permitting the licensee to continue to engage in the licensed activity would endanger the public health, safety, or welfare.

The proposed regulations would specify that a premises must post a notice when it has had a license suspended or revoked and would specify what the notice must say and how it must appear. The proposed regulations would clarify that the Bureau may request the administrative law judge to direct the licensee found to have committed a violation to pay a sum not to exceed the reasonable costs of investigation and enforcement of a case and would specify the process for making the request. The proposed regulations would also specify the minimum conditions for probation that must be contained in an order placing a licensee on probation as a condition of staying a revocation or suspension. Lastly, the proposed regulations would specify the disciplinary guidelines to be considered in reaching a decision on a disciplinary action under the MAUCRSA or the Administrative Procedures Act.

The proposed regulations in Chapter 7 are necessary to impose discipline or conditions on a licensee to gain compliance with the statutory and regulatory requirements governing licensees. The proposed regulations provide for different paths to address lack of compliance with the law based on the facts and circumstances of a particular situation. This includes a notice to comply, which gives the licensee the opportunity to correct the deficiency within the notice to allow the licensee to come into compliance without a formal disciplinary action when feasible. This allows the Bureau to educate licensees and to assist them with quickly coming into compliance. The proposed regulations also include a citation program, similar to those administered by other licensing entities, which implements the Bureau's statutory authority to address unlicensed activity to assist in stopping illegal cannabis activity and to correct inappropriate conduct by a licensee at an earlier juncture than filing a formal accusation. The regulations also provide information about proposed penalties for different violations and processes for imposing discipline which place the licensee on notice of the consequences of certain actions and the right to challenge any penalty from the Bureau.

The MAUCRSA allows for the use of minor decoys to ensure that licensees are not selling cannabis goods to persons under 21 years of age. The proposed regulations contain provisions consistent with the Alcoholic Beverage Control's minor decoy requirements. Decoys must be less than 20 years old so that the decoy is clearly under 21 years old. A decoy must carry his or her identification, present this identification if asked, and cannot lie about his or her age if asked by the licensee so that a licensee has a fair opportunity to determine if the minor decoy is under 21

years of age. Finally, the minor decoy must identify the person who sold the cannabis good to him or her so that the proper person is cited.

#### Proposed section 5800

Proposed section 5800 provides the notice and authority under which Bureau staff and representatives may access the licensee's premises and property for purposes of inspection, audit, investigation, or review. Subsection (a) allows for the Bureau to enter onto any licensed premises, test any vehicles or equipment used in the licensee's commercial cannabis activity, test any cannabis goods, and to copy any materials, books or records of the licensee. Subsection (b) preserves the rights of licensees, and subsections (c) through (e) proscribe that such rights of access as provided in this section attach to any inspection, investigation, review, or audit, for which prior notice is not required, and which shall be conducted at any time the licensee is exercising privileges under the license, or as otherwise agreed. Subsection (f) provides that if Bureau representatives must enter the licensed premises, through another licensed premises, and the premises that must be passed through denies the Bureau access than both licensees are subject to discipline.

Proposed section 5800 is necessary to establish the licensing authorities' access rights as to inspections, investigations, audits, and reviews. Several provisions of law grant the licensing authorities these rights to access, including Business and Professions Code section 26160 and Government Code section 11180 et seq. Licensing authorities must have the ability to fully and immediately access licensed premises, equipment, materials, and records, used in the operation of a commercial cannabis business, in order to carry out their duties and responsibilities under MAUCRSA, including determining whether an applicant or licensee is in compliance with MAUCRSA and its implementing regulations, and also in ensuring the protection of the public as the highest priority. Full and immediate access will allow the Bureau's representatives to access the licensed premises without allowing an opportunity for licensees to conceal or cover any deficiencies or violations. The Bureau has determined that a number of local jurisdictions are authorizing shared spaces in particular for equity applicants. Some of these shared spaces require that access to one premises is only available through another premises. In order to allow these types of setups, the Bureau has determined that it is necessary to hold both licensees responsible if access to one premises is denied by another.

#### Proposed section 5808

Proposed section 5808 provides additional grounds for discipline of either a licensee, or a person engaging in unlicensed activity, which are grounds in addition to section 26030 of the Business and Professions Code. Proposed subsection (a) provides that a licensee may be disciplined for failing to pay a fine imposed by the Bureau, or agreed to by the licensee. Subdivision (b) provides disciplinary grounds for failure to correct objectionable conditions on licensed premises, including adjacent areas. Proposed subsection (c) provides that a licensee may be disciplined for failing to correct objectionable conditions on any public sidewalk abutting their premises, specifying that failing to correct objectionable conditions includes failing to contact local law enforcement or failing to request any persons engaging in or causing objectionable conditions to cease. Proposed subsection (e) provides grounds for discipline, a licensee permitting the illegal sale of a controlled substance or dangerous drug, and proposed subsection (f) provides that a licensee can be disciplined for utilizing a specific solicitation scheme on the premises.

This section is necessary to carry out the mandate of the Bureau in ensuring the protection of the public as the highest priority. Failure to pay a fine imposed by the Bureau or agreed to by the licensee is a violation of rules and regulations that indicates non-compliance and requires disciplinary action. Civil Code section 3479 defines a nuisance as anything which is injurious to health, including, but not limited to, the illegal sale of controlled substances, anything indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property. This proposed section is necessary to prohibit activities that would be injurious to health or and around commercial cannabis businesses for which the licensee controls.

*Anticipated Benefit of the Proposed Regulations:*

The broad objectives of these proposed regulations are to create a state licensed and regulated commercial cannabis market. The proposed regulations are expected to benefit the health and welfare of California residents. The specific benefits anticipated are increased protection of the public and the environment from the harms associated with an unregulated commercial cannabis market. The proposed regulations will ensure that cannabis goods meet health and safety standards by requiring that samples of each batch of harvested cannabis and cannabis products be tested prior to being sold to consumers. The proposed regulations would also ensure that cannabis goods are sold in a manner that prevents access to the goods by persons under the age of 21 who do not possess a valid physician's recommendation.

*Evaluation of Inconsistency/Incompatibility with Existing State Regulations:*

Under the federal Controlled Substances Act (21 U.S.C. §801 et seq.) cannabis is illegal. However, the U.S. Department of Justice issued guidance regarding the enforcement of cannabis activities in a memorandum issued by Deputy Attorney General James M. Cole on August 29, 2013, commonly referred to as the Cole Memorandum. Although the Cole Memorandum was rescinded in January 2018, these proposed regulations are not inconsistent or incompatible with the tenets of the Cole Memorandum. The Bureau has also determined that these proposed regulations are not inconsistent or incompatible with existing regulations. After conducting a search and review of any similar regulations on this topic, the Bureau has concluded that these are the only regulations that concern the State licensing and enforcement of commercial cannabis distributors, retailers, microbusinesses, and testing laboratories.

*Incorporation by Reference:*

The following documents are incorporated into the regulations by reference:

- (1) US Food and Drug Administration's *Guidelines for the Validation of Methods for the Detection of Microbial Pathogens in Foods and Feeds*, 2nd Edition, 2015.
- (2) US Food and Drug Administration's *Guidelines for the Validation of Chemical Methods for the FDA FVM Program*, 2nd Edition, 2015.
- (3) Bureau of Cannabis Control Disciplinary Guidelines November 2017.

## DISCLOSURES REGARDING THE PROPOSED ACTION

*The Bureau has made the following initial determinations:*

Mandate on local agencies and school district:  
None. Cost or savings to any state agency: None.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 et seq.: None.

Other non-discretionary cost or savings imposed on local agencies:  
None. Cost or savings in federal funding to the state: None.

## TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS

The following document is new and was relied on for this readoption:

Calculations and Proposals on Bureau License Fees, Daniel A. Sumner, University of California, Agricultural Issues Center, May 15, 2018

The following documents from the previously approved rulemaking file under file number 2017-1127-05 are hereby incorporated by reference.

1. 420Magazine, *How Many Grams/Day is the Average Patient Prescribed* (June 2013) <<https://www.420magazine.com/forums/medical-cannabis-lounge/158520-how-many-grams-day-average-patient-prescribed.html>> (as of Feb. 13, 2017).
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