

Department of Cannabis Control
Emergency Readopt Rulemaking

**Finding of Emergency and Notice of Proposed
Readoption of Emergency Regulations**

Subject Matter of Proposed Regulations: Waivers for commercial cannabis licensing fees pursuant to Business and Professions Code (BPC) section 26249.

Sections Affected: California Code of Regulations, title 4, section 15014.1.

Required Notice of Proposed Emergency Action

Government Code (Gov. 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 (OAL), 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 OAL, the OAL shall allow interested persons five calendar days to submit comments on the proposed emergency regulations set forth in Gov. Code section 11349.6.

This document provides the required notice that the Department of Cannabis Control (Department) will submit a proposed action to the OAL to readopt its emergency regulations that implement waivers for licensing fees pursuant to BPC section 26249.

As required by subdivisions (a)(2) and (b)(2) of Gov. Code section 11346.1, this notice includes and incorporates the following: (1) the specific language of the proposed regulations and (2) the Finding of Emergency, including specific facts demonstrating the need for immediate action, the authority and reference citations, the informative digest and policy statement overview, and required determinations.

Specific Facts Demonstrating the Need for Immediate Action

On September 23, 2021, Governor Gavin Newsom signed California Senate Bill 166. This chaptered bill, codified in BPC section 26249, requires the Department to develop and implement a program to provide waivers for licensing fees, with at least 60 percent of the total amount of fee waivers allocated to fee waivers for local equity applicants and licensees. The bill also established criteria for the program. The cannabis equity fee waiver program is designed to assist commercial cannabis license applicants and licensees, who have been harmed by the War on Drugs.

BPC section 26249 grants the Department the authority to adopt or readopt emergency regulations to implement the section and deems such regulations as an emergency and necessary for the immediate preservation of public peace, health, safety, or general welfare.

The present emergency regulations were filed with OAL on December 10, 2021. The emergency regulations were approved on December 20, 2021, and filed the same day with the Secretary of State, making them effective immediately. The Department has made substantial progress and proceeded with diligence to move the emergency regulations to permanent regulations through a Certificate of Compliance (Certificate). Since adoption of the emergency regulations, the Department's staff has conducted significant outreach with licensees and other stakeholders. Utilizing feedback it has collected from licensees and other stakeholders, the Department is drafting a proposed permanent regulation. Once complete, the draft regulation package will undergo the Department's required internal review and approval process. The Department prepared the present readoption package to ensure that the public's general welfare is protected until the Certificate has been approved and adopted. The Department anticipates that the Certificate will be completed well within the readoption period.

Authority and Reference

BPC section 26249 authorizes the Department to develop and implement a program to provide waivers for required licensing fees. These emergency regulations will implement, make specific, or reference BPC section 26249.

Informative Digest / Policy Statement Overview

Existing Law

On July 12, 2021, the Department was established following Governor Gavin Newsom's signing of Assembly Bill 141 (Chapter 70, Statutes of 2021), which consolidated regulatory, licensing, and enforcement functions previously performed by three legacy programs housed within different state departments. The Department regulates all commercial cannabis license holders in California, including cultivators, manufacturers, retailers, distributors, microbusinesses, testing laboratories, and temporary cannabis events.

BPC section 26012 authorizes the Department to collect fees in connection with its regulation of such commercial cannabis activities. BPC section 26180 further establishes a scale of application, licensing, and renewal fees intended to cover the costs of administering MAUCRSA. In furtherance of these statutory directives, section 15014 of the Department's regulations enumerates the fees collected by the Department and paid by applicants and licensees to establish consistency in application and licensure requirements. Specifically, the Department's regulations clarify the annual license fees for each license type, depending on the size of the business, and how and when the license fees can be paid. BPC section 26249 requires the Department to implement a fee waiver program by January 1, 2022. The Department did so through the previously adopted emergency regulations. The Department proposes to readopt the emergency regulations, with specific amendments, to keep emergency regulations in place until the Certificate process is completed.

Policy Statement

Regulation Objectives

The Department has developed this emergency regulation to further clarify or make specific sections of MAUCRSA pertaining to waivers for licensing fees. The proposed regulations will implement the Department's responsibility to provide waivers for licensing fees required by MAUCRSA, while establishing a regulatory process for applicants and licensees to request waivers for licensing fees required by MAUCRSA. The proposed regulations will provide clarification regarding what evidence shall be used in support of a fee waiver request submitted to the Department and how fee waiver requestors can remedy deficient fee waiver requests.

Anticipated Benefits to the Public

Cannabis prohibition and criminalization had a devastating impact to certain populations and communities in California. Individuals convicted of a cannabis offense and their families suffer the long-term consequences of prohibition and criminalization. Such individuals have a more difficult time entering the regulated commercial cannabis industry due, in part, to a lack of access to capital.

Designed to assist people and communities that have been harmed by the War on Drugs, BPC section 26249 facilitates the first statewide cannabis equity fee waiver program of its kind in an effort to help disadvantaged cannabis entrepreneurs. Both cannabis businesses in local jurisdictions with local equity programs and those that operate in jurisdictions that do not have local equity programs are eligible for fee waivers for licensing fees from the Department. To be eligible for a fee waiver from the Department, BPC section 26249 requires applicants and licensees to meet one of the following criteria:

1. The applicant or licensee has previously been convicted for a cannabis related violation;
2. The applicant or licensee has been arrested for a previous cannabis related violation;
3. The applicant or licensee resides in a household whose income is less than or equal to 60 percent of the area median income for the local jurisdiction; or
4. The applicant or licensee resides in an area with a population disproportionately impacted by past criminal system policy.

Offering fee waivers will further the stated intent of MAUCRSA by reducing barriers to licensure in the regulated commercial cannabis industry.

Section 15014.1. Fee Waivers.

BPC section 26249 requires the Department implement a program to provide waivers for licensing fees required by MAUCRSA and its implementing regulations. Accordingly, section 15014.1 establishes the process for a commercial cannabis business applicant or licensee to request waivers of licensing fees.

Proposed subsection (a) identifies the definitions that are applicable to the section. Specifically, proposed subsection (a)(1) defines “qualified equity applicant or licensee” as a person who is an owner in a commercial cannabis business pursuant to section 15003(a). BPC 26249(c)(2) requires that equity applicants or licensees own no less than 50 percent of the commercial cannabis business. For consistency and clarity, the Department determined that a definition consistent with the ownership interest defined in 15003(a), which is an aggregate ownership interest of 20 percent or more, was necessary to inform the regulated public that equity applicants or licensees must hold an equity interest in the commercial cannabis business. This definition also ensures that prospective fee waiver requestors are aware that they must have at least one owner that meets certain qualifying criteria to be eligible for a fee waiver under the Department’s fee waiver program.

Proposed subsection (a)(1)(A) further clarifies that one mechanism for equity applicants or licensees to be eligible for a fee waiver is to be a verified equity applicant or licensee in a jurisdiction with a local equity program as defined in subsection (a)(2). This clarification is a necessary restatement of the provisions of BPC 26249(c)(1)(A), which recognizes those applicants and licensees that are participants of their local jurisdiction’s local equity programs may qualify for a fee waiver if certain conditions are satisfied.

Proposed subsection (a)(1)(B) clarifies that applicants or licensees who qualify under the provisions of subsection (d) are eligible for a fee waiver. BPC 26249(b)(2) requires that 60 percent of the total dollar amount of fee waivers pursuant to the Department’s program to be allocated to applicants and licensees in local jurisdictions with local equity programs, that are locally verified equity applicants and licensees; and local applicants and licensees that are in local jurisdictions without equity programs. This definition is necessary for clarity, as it not only clearly indicates what applicants or licensees may be considered for a fee waiver, but it restates the considerations of BPC 26249(c)(1)(B), which provides that applicants and licensees in local jurisdictions without local equity programs may qualify for a fee waiver if they meet certain conditions. Significantly, the Department recognized that there may be applicants or licensees that meet the criteria of subsection (d) but are not active participants of their jurisdiction’s local equity program. This definition ensures that compliant applicants and licensees that are not active participants of their jurisdiction’s local equity program, may also qualify for a fee waiver under the Department’s program if certain conditions are met; such waivers would be issued from the funds not included as part of the 60 percent required to be allocated to specific applicants and licensees.

Proposed subsection (a)(2) defines “locally verified applicant or licensee” as an applicant or licensee that satisfies certain conditions, including: that the applicant or licensee submitted an application to engage in commercial cannabis activity; that the applicant or licensee’s commercial cannabis operation is located within the boundaries of that jurisdiction; that the applicant or licensee meets the requirements of that jurisdiction’s local equity program; and that the applicant or licensee have attested that they meet one of the criteria in subsection (d). This definition is necessary because BPC section 26249 uses the term “locally verified applicant or licensee,” but does not include a definition in the statute. This definition ensures prospective fee waiver requestors are aware that one method of qualifying for a fee waiver is to be an active participant of their jurisdiction’s local equity program. It also ensures that such locally verified applicants or licensees are aware that they must meet at least one of the criteria enumerated in BPC 26249(c)(3).

Proposed subsection (b) provides that commercial cannabis businesses with one qualified equity applicant or licensee that has submitted a complete fee waiver submittal shall be eligible for one license fee waiver from the Department per 12-month licensure period. This subsection is necessary because it provides prospective fee waiver requestors clarity regarding the general eligibility requirements and general expectations of the Department’s fee waiver program. The Department determined it was appropriate to tie the waiver eligibility period to the 12-month licensure period, as under the current legal framework, licensees are expected to pay licensure fees annually. Moreover, the Department determined it was necessary to establish a limit on the number of fee waivers a commercial cannabis business may be eligible for. Accordingly, one fee waiver per commercial cannabis business was selected to limit the potential for abuse and ensure that fee waivers may be issued to as many eligible commercial cannabis businesses as possible. Further, this section is necessary to ensure that the Department’s fee waiver program satisfies BPC section 26249’s requirement that at least 60 percent of the total dollar amount of fee waivers pursuant to this program are appropriately allocated to the waiver of fees for qualified equity applicants and licensees.

Proposed subsection (b)(1) further provides that prospective fee waiver requestors must have either applied for licensure, in accordance with section 15002, or have satisfied the licensure renewal requirements of section 15020. This is necessary for administrative efficiency, to ensure that Department resources are appropriately focused on reviewing fee waiver requests from qualified equity applicants and licensees that are in the process of applying for a license or have been issued a license from the Department.

Proposed subsection (b)(2) requires that a prospective fee waiver requestor be an applicant that expects a gross revenue less than or equal to \$5,000,000, or a licensee with a gross revenue less than or equal to \$5,000,000. Previously, the Department had established a benchmark of \$1,500,000 for fee waiver applicants. Based on feedback from licensees that currently participate in their local jurisdiction’s equity programs, the

Department determined that an expected gross revenue less than or equal to \$5,000,000 more accurately corresponds to licenses held by equity commercial cannabis business operators. This subsection is necessary to ensure that fee waivers are appropriately allocated to the range of equity businesses, including retailers, which often have larger gross receipts. To ensure that licensees are aware of how to demonstrate their gross revenue, this subsection also provides an example of the types of financial data that is typically held by the applicant or licensee and may be submitted for the Department's consideration. Proposed subsection (b)(3) requires that the qualified equity applicant or licensee, individually or in combination with other qualified equity applicants, own no less than 50 percent of the commercial cannabis business. This statutory requirement is contained in BPC 26249(c)(2) and included to have all requirements in one place for clarity.

Proposed subsection (b)(4) requires qualified equity applicants and licensees to have timely submitted a fee waiver request and provides clarification regarding when the Department will consider such requests to be timely. Specifically, subsection (b)(3)(A) provides that to be eligible for a license fee waiver in the initial 12-month licensure period, the equity applicant must indicate on the application for a commercial cannabis license that they are also applying for a license fee waiver from the Department. The Department has determined that, for administrative efficiency, incorporating this submittal as part of the licensure application process aids in streamlining the Department's fee waiver review. It also ensures that prospective applicants for licensure are aware of the general timing requirements with regards to making their fee waiver request.

Subsection (b)(3)(B) provides that to be eligible for a license fee waiver at the time of renewal, the equity licensee must submit a fee waiver request at least 60 calendar days before the expiration of the license. The Department has determined that, for administrative efficiency, requiring this submittal at least 60 days before license expiration allows the Department an appropriate amount of time to complete its fee waiver review prior to license expiration, while ensuring that prospective applicants for licensure are aware of the general timing requirements with regards to making their fee waiver request. This subsection further provides that, the Department will accept fee waiver requests from equity licensees, who on the effective date of this section are less than 60 days from the date of license expiration. Additionally, the proposed subsection provides that the Department will provide a refund if the Department determines the licensee is eligible for a fee waiver after the licensee has paid all annual licensing fees. The Department recognizes that some applicants, by virtue of where their license renewal falls on the calendar, may not be able to submit their fee waiver requests at least 60 days prior to the expiration of their license once the proposed regulation goes into effect. Therefore, the Department determined that it was necessary to clarify that the Department will issue a refund if a fee waiver is granted. This ensures that applicants and licensees who have paid fees prior to the determination regarding the fee waiver still receive this benefit if qualified. The Department has also indicated the

refunds will only be provided subject to available funding as the Department has a limited amount of funding that will be dispersed based on order of approval.

Proposed subsection (c) of the proposed regulation requires qualified equity applicants and licensees to submit certain information to the Department. The proposed regulation would benefit qualified equity applicants and licensees by providing them with clear direction on how to demonstrate their qualifications for a waiver from the Department. Further, this proposed regulation would benefit qualified equity applicants and licensees by requiring a limited number of items from qualified equity applicants and licensees, so that the Department will be able to review such fee waiver requests in an expedient matter.

Proposed subsection (c)(1) requires that qualified equity applicants and licensees shall provide a complete list of every qualified equity applicant or licensee, which includes the percentage of the aggregate ownership interest held by the qualified equity applicant or licensee in the commercial cannabis business. This information is necessary to identify the qualified equity applicants and licensees and to aid the Department in cross-referencing the fee waiver requestor's information with their application or licensure records. It also enables the Department to confirm that qualified equity applicants and licensees satisfy the ownership requirements enumerated in BPC 26249(c)(2).

Proposed subsection (c)(2) requires the qualified equity applicant or licensee to provide contact information for each of the qualified equity applicants and licensees of the commercial cannabis business, including the name, title, phone number, and email address of each qualified equity applicant or licensee. This information is necessary because it ensures the Department knows how to contact particular qualified equity applicants and licensees regarding questions or issues with the evidence they have submitted to demonstrate fee waiver eligibility.

Proposed subsection (c)(3) requires locally verified equity applicants or licensees in a jurisdiction with a local equity program to provide an attestation. Specifically, the attestation provides that the qualified equity applicant or licensee declares that they are a locally verified equity applicant or licensee, that they satisfy at least one of the criteria set forth in subsection (d), and that they understand that the Department may investigate the accuracy of their attestation. The attestation further provides that a misrepresentation is cause for rejection of the fee waiver request. BPC section 26249 provides that applicants and licensees in local jurisdictions with local equity programs may qualify for a fee waiver if they are locally verified equity applicants. Based on the Department's review of the qualification requirements for local equity programs that are currently in existence, the Department determined that locally verified equity applicants or licensees already routinely demonstrate their satisfaction of the identified criteria in subsection (d) to participate in their local programs. The Department determined that, in order to make fee waiver determinations in an expedient manner, requiring additional evidence for locally verified equity applicants or licensees is not necessary for the fee waiver evaluation process and may be considered burdensome or duplicative by

qualified equity applicants and licensees. This provision is also necessary to inform qualified equity applicants and licensees that the Department reserves the right to confirm this information with the local jurisdiction, as well as inform qualified equity applicants and licensees of the ramifications of misrepresenting their status with a local jurisdiction's equity program.

Proposed subsection (c)(4) requires qualified equity applicants and licensees to attest that they, either individually or in combination with other qualified equity applicants and licensees, own no less than 50 percent of the commercial cannabis business that is applying for licensure or is licensed. The proposed attestation in this subsection is a restatement of the requirements for qualified equity applicants and licensees and is necessary to ensure that any fee waivers issued by the Department conform with BPC 26249(c)(2). Incorporating this requirement also helps ensure that the Department's fee waiver program satisfies the BPC section 26249 requirement that at least 60 percent of the total dollar amount of fee deferrals are appropriately allocated to the waiver of fees for qualified equity applicants and licensees.

Proposed subsection (d) clarifies that all qualified equity applicants and licensees must satisfy at least one of the identified qualifying criteria. This subsection is necessary because it restates how qualified equity applicants and licensees may demonstrate eligibility pursuant to BPC section 26249. It also provides added clarity for prospective fee waiver requestors as they gather the appropriate information for submittal to the Department.

Proposed subsection (d) further provides that qualified equity applicants and licensees that are locally verified equity applicants or licensees may establish that they satisfy at least one of the criteria by attestation, as set forth in subsection (c)(3). Based on the Department's review of the qualification requirements for local equity programs that are currently in existence, the Department determined that locally verified equity applicants or licensees already routinely demonstrate their satisfaction of the identified criteria in subsection (d) to participate in their local programs. The Department determined that requiring additional evidence for locally verified equity applicants or licensees may decrease administrative efficiency. Additionally, requiring additional evidence for locally verified equity applicants or licensees is not necessary for the fee waiver evaluation process and may be considered burdensome by qualified equity applicants and licensees. In contrast, the proposed subsection requires qualified equity applicants and licensees that are not locally verified equity applicants or licensees in a jurisdiction with a local equity program to submit certain evidence. The Department determined that a higher level of scrutiny is appropriate for qualified equity applicants and licensees who are not locally verified equity applicants or licensees in a jurisdiction with a local equity program; this ensures that the Department can effectively screen for eligibility under the statutory criteria.

Proposed subsection (d)(1) provides that qualified equity applicants and licensees may submit evidence that the qualified equity applicant or licensee was convicted of an

offense related to the sale, possession, use, manufacture, or cultivation of cannabis, prior to November 8, 2016. This subsection is necessary because it restates one of the ways qualified equity applicants and licensees may demonstrate eligibility pursuant to BPC section 26249. The proposed subsection further provides that proof of conviction shall be demonstrated by certified copies of federal or state court records indicating the disposition of the criminal matter; records reflecting the post-conviction dismissal or expungement of a conviction, including records reflecting relief under Health and Safety Code section 11361.5; or any other applicable court or law enforcement record that shows proof of conviction. To ensure that qualified equity applicants and licensees satisfy this provision, the Department determined it was necessary that qualified equity applicants and licensees provide evidence in support; copies of the identified records may be procured by qualified equity applicants and licensees and are a simple way for Department staff to confirm eligibility under this criterion.

Proposed subsection (d)(2) provides that qualified equity applicants and licensees may submit evidence that the qualified equity applicant or licensee was arrested for an offense related to the sale, possession, use, manufacture, or cultivation of cannabis, prior to November 8, 2016. This subsection is necessary because it restates one of the ways qualified equity applicants and licensees may demonstrate eligibility pursuant to BPC section 26249. The proposed subsection further provides that proof of arrest shall be demonstrated by copies of federal or state court records indicating the disposition of the criminal matter, records of expungement documentation, or any other applicable law enforcement record that shows proof of arrest. To ensure that qualified equity applicants and licensees satisfy this provision, the Department determined it was necessary that they provide evidence in support; copies of the identified records may be procured by qualified equity applicants and licensees and are a simple way for Department staff to confirm eligibility under this criterion.

Proposed subsection (d)(3) provides that qualified equity applicants and licensees may submit evidence that the qualified equity applicant or licensee resides in a household in a local jurisdiction with a household income less than or equal to 60 percent of the area median income for the local jurisdiction they reside in, as reported in the most recent United States decennial or special census. This subsection is necessary because it restates one of the ways qualified equity applicants and licensees may demonstrate eligibility pursuant to BPC section 26249. The Department determined it was necessary to include a reference to the United States decennial or special census, as the United States decennial or special census provides readily available data regarding median incomes for a variety of jurisdictions in the state.

The proposed subsection further provides that proof of income shall be demonstrated using copies of certain records with an address in the local jurisdiction, dated within the last two years from the date of fee waiver request submittal, such as: individual federal tax returns; state tax returns and W-2s; two consecutive paystubs; or proof of eligibility for a general assistance program that provides financial aid to adults without sufficient income or resources (e.g., CalFresh, MediCal/CalWORKS, supplemental security

income, or social security disability). To ensure that qualified equity applicants and licensees satisfy this provision, the Department determined it was necessary that qualified equity applicants and licensees provide evidence in support. Because the identified records are readily available to qualified equity applicants and licensees and demonstrate their income level, the copies of the identified records are a simple way for Department staff to confirm eligibility under this criterion.

Proposed subsection (d)(4) provides that qualified equity applicants and licensees may submit evidence that the qualified equity applicant or licensee has resided in an area with a population disproportionately impacted by past criminal justice policies implementing cannabis prohibition for at least five years between 1980 and 2016. BPC section 26249 enables qualified equity applicants and licensees to demonstrate eligibility that they are in an area with a population disproportionately impacted by past criminal justice policies implementing cannabis prohibition; this subsection restates this qualification. Notably, the Department determined that it is necessary to clarify that a qualified equity applicant or licensee had to have lived within the local jurisdiction for at least five years between 1980 and 2016. The Department selected five years as an appropriate time span of residency because it ensures that only those individuals who have resided in a local jurisdiction that has truly been disproportionately impacted by that jurisdiction's past criminal justice cannabis policies may qualify. Moreover, the Department determined that it was important to identify a time period for which the qualified equity applicant or licensee had to have lived in the jurisdiction. The Department determined that the year 1980 was appropriate as a starting point for residency because legal and regulatory policies developed during this period in furtherance of the War on Drugs and expanded penalties related to the possession of cannabis. The Department determined that it was appropriate to end this residency period in 2016, with the legalization of commercial cannabis in California.

Proposed subsection (d)(4) further provides that, in addition to living in an area with a population that was disproportionately impacted by past criminal justice policies implementing cannabis prohibition during their period of residency, qualified equity applicant must either: (a) reside in a census tract that is among the top 25 percent for civilian unemployment and poverty in the state based on the United States Census Bureau's 2013-2017 American Community Survey, or; (b) the qualified equity applicant or licensee must have an immediate family member who was convicted or arrested of an offence related to the sale, possession, use, manufacture, or cultivation of cannabis, prior to November 8, 2016. Based on feedback from Department stakeholders, the Department selected these two criteria because they ensure that fee waivers are appropriately targeted towards low-income populations that were directly impacted by cannabis criminalization policies implemented during the War on Drugs. Moreover, the Department determined that when an immediate family member was arrested for, or convicted of, an offense related to cannabis activity, the disproportionate impact affected the entire family.

For the purposes of proposed subsection (d)(4), subsection (d)(4)(C)(i) defines “an area with a population disproportionately impacted by criminal justice policies implementing cannabis prohibition for at least five years between 1980 and 2016” as: a county within California with a per capita drug related arrest rate higher than the state’s per capita drug related arrest rate between 1980 and 2016. For convenience and clarity, the Department has identified the counties that meet this criteria and listed them. These counties are Alameda, Alpine, Contra Costa, Del Norte, Fresno, Glenn, Humboldt, Imperial, Inyo, Kern, Lake, Los Angeles, Mendocino, Merced, Riverside, Sacramento, San Bernardino, San Diego, San Francisco, San Joaquin, Santa Cruz, Sierra, Solano, Stanislaus, Tehama, Trinity, Tulare, Yolo, and Yuba. This definition is necessary to ensure that prospective fee waiver requestors are aware of what geographical areas may qualify as areas that have been disproportionately impacted by criminal justice policies. The identified jurisdictions were selected by the Department and based on data publicly available from the California Department of Justice. Moreover, the identified jurisdictions have also been identified in the Governor’s Office of Business and Economic Development’s California Community Reinvestment Grants Program as jurisdictions that have had a per capita drug related arrest rate higher than the state’s per capita drug related arrest rate between 1980 and 2016.

Proposed subsection (d)(4)(C)(ii) defines “immediate family member” as a child, stepchild, parent, stepparent, brother, sister, half-brother, half-sister, stepsibling, legal guardian, grandparent or great grandparent. The Department identified these particular family members because such family members’ cannabis arrests or convictions generally have had a direct impact on household income and stability of family structures.

Proposed subsection (d)(4)(D) provides that proof of residence shall be demonstrated by providing copies of at least two records with an address in the local jurisdiction, such as a California Driver’s License or State Identification Card; property tax billing or payment, or evidence that the equity applicant is otherwise exempt from property tax payment by law; a signed residential lease agreement, or deed or title to residential real property; copies of state or federal tax returns; school records; banking or credit card records; voter registration; credit reports; or utility, cable, or internet billing or payment. To ensure that equity applicants or licensees satisfy this provision, the Department determined it was necessary that they provide evidence that typically includes residential address information in support; copies of the wide variety of identified records are not only readily available to qualified equity applicants and licensees, but they are a simple way for Department staff to confirm eligibility under this criterion.

Proposed subsections (d)(4)(F) provides that an immediate family members conviction or arrest shall be demonstrated by copies of court records indicating the disposition of the criminal matter, records reflecting post-conviction dismissal or expungement, or any other court or law enforcement record that shows proof of conviction or arrest. To ensure that equity applicants or licensees satisfy this provision, the Department determined it was necessary that they provide evidence that establishes through official

records a criminal conviction or arrest available to applicants and licensees, as well as provide a simple and reliable way for Department staff to confirm eligibility under this criterion.

Proposed subsections (d)(4)(G) provides that the required familial relationship shall be identified by copies of records establishing such relationship, such as birth certificates or court records. To ensure that equity applicants or licensees satisfy this provision, the Department determined it was necessary that they provide evidence that establishes the immediate familial relationship available to applicants and licensees, as well as provide a simple and reliable way for Department staff to confirm eligibility under this criterion. The Department has provided examples of types of documentation to assist the applicants and licensees with how they can meet this criterion.

Proposed subsection (e) provides that incomplete fee waiver requests will be denied. The Department anticipates it will receive some incomplete fee waiver requests, will receive fee waiver requests from applicants who have not-yet satisfied the application requirements for licensure, or will receive fee waiver requests from licensees who have not-yet satisfied licensure renewal requirements. This proposed subsection is necessary because it sets forth, in plain language, that the Department will deny an incomplete fee waiver request. This is primarily intended for administrative efficiency and because the Department is unable to determine whether prospective fee waiver requestors satisfy the requirements of BPC 26249 without review of all the requested information. Additionally, it allows the Department to focus its resources on complete applications. However, this provision does not prevent an applicant or licensee from submitting a new complete request.

Proposed subsection (f) provides that the Department will process fee waiver requests in the order in which the application or renewal for commercial cannabis licensure has been approved by the Department. The Department determined it was necessary to establish how priority will be determined in the processing of fee waiver requests. This subsection serves to minimize the submittal of incomplete requests as a means of establishing fee waiver priority. The Department is unable to determine whether prospective fee waiver requestors satisfy the requirements of BPC 26249 without review of all the requested information. Accordingly, this mechanism ensures that the Department can move forward with the review of complete fee waiver requests in a timely fashion.

Proposed subsection (g) provides that issuance of fee waivers by the Department are subject to available funding and clarifies that all eligible applicants and licensees may not be granted a fee waiver. This is necessary to notify prospective fee waiver requestors that the Department's issuance of fee waivers is not guaranteed and is based on the budget allocated by the state legislature. BPC 26249(b)(2) requires that 60 percent of the total dollar amount of fee waivers pursuant to the Department's program to be allocated to: (1) applicants and licensees in local jurisdictions with local equity programs, that are locally verified equity applicants and licensees; and (2) local

applicants and licensees that are in local jurisdictions without equity programs. Under the Department's proposed fee waiver program, the remaining 40 percent of the total dollar amount available for fee waivers would be available to compliant applicants and licensees that are not active participants of their jurisdiction's existing local equity program, but otherwise qualify under the provisions of subsection (d).

Inconsistency with Federal Regulation Statute

The United States Drug Enforcement Administration (DEA) under the Controlled Substances Act lists cannabis as a Schedule 1 Drug. This means that commercial cannabis activity is illegal under federal law. However, California, through the MAUCRSA and other laws, has decriminalized the cultivation, sale, and possession of cannabis goods for persons aged 21 or older and for medicinal patients.

Consistency with Existing State Regulations

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

Plain English Statement

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

Disclosures Regarding the Proposed Action

The Department has made the following initial determinations:

Local mandate: There will be no local mandate.

Cost to any local agency or school district requiring reimbursement pursuant to Gov. Code section 17500, et seq.: None.

Any other non-discretionary cost or savings imposed upon local agencies: None.

Cost or savings to any state agency: The Department's staff workload associated with the additional operational activities created by these regulations can be absorbed by existing staff.

Any costs or savings in federal funding to the state: None.

Economic Impact and Fiscal Impacts

Business Impact

Based on data gathered by the Department on qualified equity applicants and licensees since the Department began accepting fee waiver requests in January 1, 2022, the Department believes that there are approximately 4,531 applicants and licensees who could be eligible under the Department's proposed fee waiver program. The businesses impacted by the regulation are qualified equity applicants and licensees who wish to engage in commercial cannabis businesses including cultivators, manufacturers, distributors, retailers, testing laboratories, event organizers, and microbusinesses.

Estimated Costs to Businesses

The proposed regulation requires licensees to complete and submit certain information prescribed by the Department to request a waiver for licensing fees required by MAUCRSA and its implementing regulations. If the information is submitted electronically, the Department has determined that applicants and licensees will be able to complete and submit the form electronically in a few minutes. As a result, no additional costs are anticipated. If the required information is submitted by mail, applicants and licensees will still be able to complete such information in a few minutes, which is not anticipated to increase costs, but applicants and licensees will incur mail postage costs ranging from \$0.58 (first class) to \$3.75 (certified) per applicant or licensee. To the extent that the approximately 4,531 applicants and licensees opt to submit their request by mail, the total economic impact would range from \$2,627.98 (first class) to \$16,991.25 (certified). However, based on current submission methods utilized by equity applicants and licensees, it is anticipated that most submissions will be made electronically.

Estimated Benefits of Regulation

BPC section 26249 requires the Department to develop and implement a program to provide waivers for licensing fees. The Department anticipates that fee waivers will increase accessibility to the regulated commercial cannabis market for qualified equity applicants and licensees who have historically been impacted by the long-term consequences of cannabis prohibition and criminalization. The Department's ability to issue fee waivers will further the stated intent of MAUCRSA by reducing barriers to licensure in the regulated commercial cannabis industry.

Fiscal Effect on State Government

The proposed regulations govern equity applicants and licensees who wish to obtain a fee waiver from the Department, while implementing the statutory requirement for the Department to process requests submitted by such equity applicants and licensees. Processing a fee waiver request includes reviewing and analyzing information provided in support of the fee waiver request, as well as application and licensure materials from the Department's cannabis licensing system to determine whether an equity applicant or licensee is eligible for a fee waiver under the Department's fee waiver program. Through the budget process, the Department has already received budget allocations for the costs associated with the administration of the program.

The proposed regulation simply requires certain information to be submitted by the equity applicant or licensee requesting a fee waiver from the Department. This will assist the Department in processing requests as required by the statute but does not alter the Department's workload created by statute. Thus, there is no fiscal effect on state government as a result of the proposed regulations.

Consideration of Alternatives

No reasonable alternative to the regulatory proposal would be either more effective in carrying out the purpose for which the action is proposed or would be as effective or less burdensome to affected private persons and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific.

Set forth below are the alternatives which were considered and the reasons each alternative was rejected:

1. Option 1: Not adopt the regulations. This alternative was rejected because BPC section 26249 requires the Department to develop and implement a program to provide waivers for required licensing fees. If the Department does not adopt regulations, there will be no specific process for applicants and licensees to follow to qualify for waivers of required fees.
2. Option 2: Do not require a written waiver request from an applicant or a licensee. This alternative was rejected because BPC section 26249 requires that applicants and licensees satisfy certain parameters to be eligible for a fee waiver. To ensure that fee waiver requestors satisfy the parameters enumerated in statute, it is necessary to adopt these regulations prescribing a process for determining eligibility. These regulations are also necessary to ensure accurate recordkeeping of each fee waiver request received by the Department.

Technical, Theoretical, and/or Empirical Study, Reports, or Documents Relied Upon

1. Bureau of Cannabis Control. Report to the Legislature on Local Jurisdiction Equity Grant Funding (July 2020).
2. City and County of San Francisco, Equity Program. (Oct. 2021).
3. City of Long Beach, Cannabis Social Equity Program (Oct. 2021).
4. City of Los Angeles, Social Equity Program (Oct. 2021).
5. City of Oakland, Cannabis Equity Program (Oct. 2021).
6. City of Palm Springs, Cannabis Related Business and Activities (Oct. 2021).
7. City of Sacramento, Cannabis Opportunity Reinvestment and Equity (CORE) Program (Oct. 2021).

8. California Department of Alcoholic Beverage Control, COVID-19 Renewal Fee Waiver Requirements and Guidelines (Mar. 2021).
9. California Governor's Office of Business and Economic Development, California Community Reinvestment Grants Program (Sept. 2021).
10. California Governor's Office of Business and Economic Development, Extracted GIS Data: Areas with a population disproportionately impacted by criminal justice policies implementing cannabis prohibition between 1980 and 2016. (Sept. 2021).
11. Colorado Department of Revenue, Social Equity (Oct. 2021).
12. Eric Martin, "Hidden Consequences: The Impact of Incarceration on Dependent Children," *NIJ Journal* 278, March 2017. (Feb. 2022).
13. Humboldt County. Humboldt County Cannabis Equity Assessment (Aug. 2019).
14. Illinois Department of Commerce and Economic Opportunity, Illinois Adult-Use Cannabis Social Equity Program (Oct. 2021).
15. Massachusetts Cannabis Control, Equity Programs (Oct. 2021).
16. Michigan Marijuana Regulatory Agency, Social Equity (Oct. 2021).
17. Mendocino County, Mendocino County's Cannabis Local Equity Grant Program (Oct. 2021).
18. United States Environmental Protection Agency, PRIA Fee Waivers for Small Businesses (Oct. 2021).
19. Yolo County, Restaurant Fee Waiver (Feb. 2021).