

Department of Cannabis Control
California Code of Regulations Title 4, Division 19
Initial Statement of Reasons

Subject Matter of Proposed Regulation: Equity fee waivers and deferrals for commercial cannabis licensing fees.

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

Background

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 and deferrals for licensing fees, with at least 60 percent of the total amount of fee waivers and deferrals allocated to local equity applicants and licensees. Specifically, BPC section 26249 requires the Department to implement a fee waiver program by January 1, 2022, and a fee deferral program by January 1, 2023. The bill also establishes criteria for the Department's granting of fee waivers and deferrals, and is designed to assist commercial cannabis license applicants and licensees who have been harmed by the War on Drugs.

The Department implemented a fee waiver program through an emergency rulemaking process. The present emergency regulation established the framework for the Department's issuance of fee waivers and was filed with the Office of Administrative Law (OAL) on December 10, 2021. The emergency regulation was approved on December 20, 2021, and filed the same day with the Secretary of State, making it effective immediately. Since the Department began issuing fee waivers in January 2022, the Department has filed an action with OAL to readopt the emergency regulation. The readoption action was approved by OAL on June 6, 2022, and filed with the Secretary State the same day, keeping it effective immediately.

The proposed action to adopt the equity relief program through California Code of Regulations, title 4, section 15014.1 provides Department applicants and licensees the opportunity to receive license fee deferrals in addition to license fee waivers. Throughout this process, Department staff has conducted significant outreach with licensees and other stakeholders towards the development of the Department's equity fee relief program, which would enable the Department to issue both waivers and deferrals for required licensing fees. Outreach included meetings with stakeholders; an April 25, 2022 listserv email requesting stakeholder input; and an informal informational session for the public on April 27, 2022.

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Statement of Purpose, Problem, Rationale, and Benefits

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 relief 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 waivers or deferrals of licensing fees from the Department. To be eligible for a fee waiver or deferral 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 equity fee relief in the form of waivers and deferrals of licensing fees will further the stated intent of MAUCRSA by reducing barriers to licensure in the regulated commercial cannabis industry. Offering fee waivers and deferrals will also aid the state in its goal of eliminating or reducing the illicit cannabis market by bringing more people into the regulated marketplace.

Specific Purpose, Necessity, and Rationale for Adoption

The Department proposes adopting section 15014.1 of Division 19, of title 4, of the California Code of Regulations, as follows.

Section 15014.1. Equity Fee Relief.

BPC section 26249 requires the Department implement a program to provide equity fee relief in the form of fee waivers and deferrals for licensing fees required by MAUCRSA and its implementing regulations. Accordingly, the Department proposes to adopt section 15014.1 to establish the process for a commercial cannabis business applicant

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or licensee to request equity fee relief in the form of waivers or deferrals 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 equity fee relief requestors are aware that they must have at least one owner that meets certain qualifying criteria to be eligible for equity fee relief under the Department’s equity fee relief program.

Proposed subsection (a)(1)(A) further clarifies that one mechanism for equity applicants or licensees to be eligible for equity fee relief 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 equity fee relief 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 equity fee relief. BPC 26249(b)(2) requires that 60 percent of the total dollar amount of fee waivers and deferrals pursuant to the Department’s equity fee relief 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 equity fee relief, 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 equity fee relief 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 equity fee relief under the Department’s program if certain conditions are met; equity fee relief would be issued from the funds not included as part of the 60 percent required to be allocated to specific applicants and licensees.

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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 equity fee relief requestors are aware that one method of qualifying for equity fee relief 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 and unlimited fee deferrals during each calendar year. 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 calendar year for administrative ease. 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 the requirement of BPC section 26249 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. With regards to fee deferrals, the Department determined that an unlimited amount of fee deferrals was necessary to allow for qualified applicants and licensees to qualify for some form of equity fee relief. The Department determined that enabling licensees to defer their annual licensing fees is necessary because it conforms to the requirements of BPC section 26249 by providing an economical way for licensees to meet their payment deadline requirements during the annual licensure term. This deferred payment system not only provides licensees enough time to plan their business finances on a biannual basis, but ensures that all annual licensing fees will be remitted as required by the Act.

Proposed subsection (b)(1) further provides that prospective equity fee relief 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

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administrative efficiency, to ensure that Department resources are appropriately focused on reviewing requests for equity fee relief 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 prospective fee waiver requestors 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. 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 the Department has determined it is necessary to have all requirements in one place for clarity. Proposed subsection (b)(4) requires qualified equity applicants and licensees to have timely submitted a request for equity fee relief and provides clarification regarding when the Department will consider such requests to be timely. Specifically, subsection (b)(4)(A) provides that to be eligible for equity fee relief in the initial 12-month licensure period, the equity applicant must indicate on the application for a commercial cannabis license that they are also requesting equity fee relief 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 review for equity fee relief. It also ensures that prospective applicants for licensure are aware of the general timing requirements with regards to making their request for equity fee relief.

Subsection (b)(4)(B) provides that to be eligible for equity fee relief at the time of renewal, the equity licensee must submit a request for equity fee relief 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 review for equity fee relief prior to license expiration, while ensuring that prospective applicants for licensure are aware of the general timing requirements with regards to making their request for equity fee relief. This subsection further provides that, the Department will

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accept requests for equity fee relief 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 requests for equity fee relief 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 equity fee relief 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 requests for equity fee relief 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 equity fee relief 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 equity fee relief 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

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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 request for equity fee relief. BPC section 26249 provides that applicants and licensees in local jurisdictions with local equity programs may qualify for equity fee relief 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 equity fee relief determinations in an expedient manner, requiring additional evidence for locally verified equity applicants or licensees is not necessary for the fee equity fee relief 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 equity fee relief issued by the Department conforms with BPC 26249(c)(2). Incorporating this requirement also helps ensure that the Department's equity fee relief program satisfies the BPC section 26249 requirement that at least 60 percent of the total dollar amount of fee waivers and deferrals are appropriately allocated to the waiver and deferral 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 equity fee relief 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

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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 equity fee relief 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 the destruction of records 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

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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 a residential address in the local jurisdiction, dated within the last two years from the date of the request for equity fee relief, 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. The Department also determined that it was necessary for the records to contain a residential address within the local jurisdiction that is not a post office box to confirm the person actually resided in the jurisdiction during the appropriate time period. A post office box is often listed as a residence address but can be obtained within a local jurisdiction even if the person does not reside within the jurisdiction; thus, could allow for applicants and licensees to obtain equity relief without meeting the requirements.

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

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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 equity fee relief is 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 criterion 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 equity fee relief requestors are aware of what geographical areas may qualify as areas that have been disproportionately impacted by criminal

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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 a residential 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; utility, cable, or internet billing or payment; or vehicle titles or proof of vehicle registration. 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. The Department also determined that it was necessary for the records to contain a residential address within the local jurisdiction that is not a post office box to confirm the person actually resided in the jurisdiction during the appropriate time period. A post office box is often listed as a residence address but can be obtained within a local jurisdiction even if the person does not reside within the jurisdiction; thus, could allow for applicants and licensees to obtain equity relief without meeting the requirements.

Proposed subsections (d)(4)(E) 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 of a conviction, including records reflecting the destruction of records under Health and Safety Code section 11361.5; 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

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and licensees, as well as provide a simple and reliable way for Department staff to confirm eligibility under this criterion.

Proposed subsections (d)(4)(F) 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 shows 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 requests for equity fee relief will be denied. The Department anticipates it will receive some incomplete requests for equity fee relief, will receive requests for equity fee relief from applicants who have not-yet satisfied the application requirements for licensure, or will receive requests for equity fee relief 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 request for equity fee relief. This is primarily intended for administrative efficiency and because the Department is unable to determine whether prospective equity fee relief 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 requests for equity fee relief 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 requests for equity fee relief. This subsection serves to minimize the submittal of incomplete requests as a means of establishing equity fee relief priority. The Department is unable to determine whether prospective equity fee relief 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 requests for equity fee relief in a timely fashion. Moreover, proposed subsection (f) clarifies that in the event a commercial cannabis business has submitted multiple requests for fee waivers, the Department will grant only one fee waiver to the applicant or licensee based on the first application or renewal for commercial cannabis licensure that has been approved by the Department. The Department determined it was necessary to establish a limit on the number of fee waivers a commercial cannabis business may be eligible for as described in subsection (b). Some applicants and licensees may not select one particular license for which to request a fee waiver but may submit multiple

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requests for fee waivers. This provides a method by which the Department will proceed in this instance. Additionally, this language provides added clarity to commercial cannabis businesses with multiple licenses by providing an overview regarding the Department's processing of fee waiver requests in light of the per calendar year limit.

Proposed subsection (g) provides that issuance of fee waivers by the Department is 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 granting 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 equity fee relief 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). Notably, proposed subsection (g) enables the Department to issue fee deferrals where there is insufficient funding to grant a fee waiver. This is necessary because the Department determined that qualified equity applicants and licensees should still be eligible for some form of equity fee relief, even when there is insufficient funding for fee waivers. The granting of a fee deferral in this situation would enable commercial cannabis businesses to stagger their licensing fee payments in a manner that coincides with revenue collected via their operations.

Proposed subsection (h) provides the conditions that fee deferrals granted by the Department will be subject to. Because BPC section 26249 is silent as to the terms and conditions of fee deferrals issued by the Department, this subsection provides necessary clarity for qualified equity applicants and licensees regarding the granting of fee deferrals.

Proposed subsection (h)(1) provides that licensees must pay the balance of their license fees no later than six months after the issuance or renewal of the license. The Department determined that enabling licensees to defer their annual licensing fees to six months after the issuance or renewal of license necessary because it provides an economical way for licensees to meet their payment deadline requirements during the annual licensure term. The Department further determined that six months was necessary to provide licensees enough time to plan their business finances on a biannual basis. Finally, the Department determined that, due to the administrative burdens associated with licensure renewal processing, it was necessary to require all annual licensing fees be due in full six months after the issuance or renewal of the

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license. This deferred payment system not only ensures that all annual licensing fees will be remitted as required by the Act, but ensures that licensees do not put themselves in the position of creating large “balloon payments” over time.

Proposed subsection (h)(2) provides that the licensee’s failure to pay the appropriate licensing fee will result in further action being taken by the Department, including, but not limited to, denial of licensure renewal, suspension, or revocation of a license. This subsection is necessary to address circumstances where a deferral recipient fails to pay the appropriate licensing fee as agreed upon. Failure to pay fees on time or pay in part creates additional workload for the Department. Additionally, as all licensees are required to pay fees to support the Department’s operations, it is necessary to take action to ensure fees are paid as required. Accordingly, this subsection clarifies that the licensee may be subject to discipline if they fail to pay their annual licensing fees as required.

Proposed subsection (h)(3) clarifies that no fee deferrals will be granted by the Department prior to January 1, 2023. BPC section 26249 requires the Department to implement a fee deferral program on or before January 1, 2023. Accordingly, this subsection is necessary because it clarifies when the Department will begin to issue fee deferrals. The Department has determined that it was necessary to delay the issuance of fee deferrals to January 1, 2023, to enable the Department to develop administrative process and procedures for fee deferral issuance.

Incorporation by Reference

No documents have been incorporated by reference.

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

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).

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9. California Department of Cannabis Control, Stakeholder Outreach (May 2022).
10. California Governor's Office of Business and Economic Development, California Community Reinvestment Grants Program (Sept. 2021).
11. 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).
12. Colorado Department of Revenue, Social Equity (Oct. 2021).
13. Eric Martin, "Hidden Consequences: The Impact of Incarceration on Dependent Children," *NIJ Journal* 278, March 2017. (Feb. 2022).
14. Humboldt County. Humboldt County Cannabis Equity Assessment (Aug. 2019).
15. Illinois Department of Commerce and Economic Opportunity, Illinois Adult-Use Cannabis Social Equity Program (Oct. 2021).
16. Massachusetts Cannabis Control, Equity Programs (Oct. 2021).
17. Michigan Marijuana Regulatory Agency, Social Equity (Oct. 2021).
18. Mendocino County, Mendocino County's Cannabis Local Equity Grant Program (Oct. 2021).
19. United States Environmental Protection Agency, PRIA Fee Waivers for Small Businesses (Oct. 2021).
20. Yolo County, Restaurant Fee Waiver (Feb. 2021).

Economic Impact and Fiscal Impact Assessment

Business Impact

The proposed regulation does not impose any new licensure eligibility or operational requirements. Rather, it provides an opportunity for equity applicants and licensees to obtain financial assistance with payment of fees, either through waiver of fees or a longer time to pay through a deferral. Participating in the equity fee relief program is voluntary and only requires submission of information to establish eligibility to be considered for a fee waiver or deferral.

The Department implemented its fee waiver program on January 1, 2022. Based on the information gathered through implementation of the fee waiver program, the Department believes that there are approximately 8,235 applicants and licensees who could be eligible under the Department's proposed equity fee relief 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. As

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the proposed regulation will increase access to licensure by providing an opportunity for financial assistance to equity licensee and applicants. The Department has determined that it will not have a significant adverse economic impact on businesses.

Estimated Costs to Businesses

The proposed regulation requires applicants and licensees to complete and submit certain information prescribed by the Department to request equity fee relief in the form of a waiver or deferral of 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 to these businesses 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 to the business. However, applicants and licensees will incur mail postage costs ranging from \$0.58 (first class) to \$3.75 (certified) per applicant or licensee if submitting by mail. To the extent that the approximately 8,235 applicants and licensees opt to submit their request by mail, the total economic impact would range from \$4,776.30 (first class) to \$30,881.25 (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

The proposed regulation would result in benefits to the regulated commercial cannabis industry that are not easily monetized. Under the proposed regulation, qualified equity applicants and licensees will have the opportunity to obtain equity fee relief in the form of a waiver or deferral of licensing fees required by MAUCRSA and its implementing regulations. This will promote increased 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 by reducing barriers to licensure in the regulated commercial cannabis industry.

Economic Impact Assessment

The proposed regulations will not have a significant adverse economic impact on businesses.

In relation to jobs, the Department does not anticipate any changes in the number of Full-Time Equivalent (FTE) jobs in the commercial cannabis industry, as the proposed regulation relates to assistance with the payment of fees.

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The proposed regulations would affect approximately 8,235 businesses that are applicants or licensees with the Department. Approximately 55% of these businesses (4,579) are estimated to meet the criteria for being classified as a small business. As described above, the proposed regulation requires licensees to complete and submit certain information prescribed by the Department to request equity fee relief. However, based on current submission methods utilized by equity applicants and licensees, it is anticipated that most submissions will be made electronically. Thus, such applicants or licensees will not incur any costs for the submittal of their requests for equity fee relief.

The proposed regulations are not expected to create or eliminate businesses. Rather, the proposed regulations may encourage expansion of existing licensees or encourage existing businesses to enter the legal commercial cannabis market. The proposed regulations would not affect the ability of businesses in the State to compete.

The proposed regulations would not affect worker safety. However, the proposed regulations would provide benefits to the State's environment that are not monetized. This may include encouraging more cannabis businesses to enter or remain in the licensed market. To the extent that unlicensed cannabis operations can cause negative environmental impacts, the proposed regulations would provide indirect benefits to the State's environment. In addition, California residents could benefit from the increased availability of tested and regulated commercial cannabis that is introduced to the supply chain.

Fiscal Effect on State Government

The proposed regulations govern equity applicants and licensees who wish to obtain a fee waiver or fee deferral from the Department, while implementing the statutory requirement for the Department to process requests submitted by such equity applicants and licensees. Processing a request for equity fee relief includes reviewing and analyzing information provided in support of the 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 or fee deferral 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 requires certain information to be submitted by the equity applicant or licensee requesting a fee waiver or deferral 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. Moreover, the proposed regulation provides clarification regarding the payment terms of fee deferrals granted by the Department; this will ensure that qualified equity applicants may spread their license fee payments over a specified period of time, while ensuring all required fees are still

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remitted to the Department as required by MAUCRSA. However, simply allowing for fees to be paid at a later date does not alter the Department's workload. Thus, there is no fiscal effect on state government as a result of the proposed regulation.

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.

Effect upon housing: There is no effect on housing.

Specific Technologies or Equipment

None.

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 regulation. This alternative was rejected because BPC section 26249 requires the Department to develop and implement a program to provide waivers and deferrals for required licensing fees. If the Department does not adopt the regulation, there will be no specific process for applicants and licensees to follow to qualify for waivers or deferrals of required fees and the Department will not fulfill its statutory mandate.
2. Option 2: Do not require a written equity fee relief request from an applicant or a licensee. This alternative was rejected because BPC section 26249 requires that

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applicants and licensees satisfy certain criteria to be eligible for a fee waiver or deferral. To ensure that fee waiver and deferral requestors satisfy the parameters enumerated in statute, it is necessary to adopt these regulations prescribing a process for determining eligibility. The regulation is also necessary to ensure accurate recordkeeping of each fee waiver request received by the Department.

3. Option 3: Having cannabis businesses initially apply for a fee deferral, which may turn into a fee waiver if certain conditions are met, such as hiring equity employees, supporting community organizations, or supporting equity businesses. This alternative was rejected due to the administrative burden of implementing this option. Moreover, BPC section 26249 requires that applicants and licensees satisfy certain parameters to be eligible for equity fee relief. The Department rejected this option to ensure that equity fee relief requestors satisfy the parameters enumerated in statute.