

Department Of Cannabis Control
California Code of Regulations Title 4, Division 19

Initial Statement of Reasons

Subject Matter of Proposed Regulations: Cultivation license changes pursuant to Business and Professions Code (BPC) section 26061.5.

Section Affected: Title 4, California Code of Regulations (CCR), sections 15020.1, 15020.2, and 15020.3.

Background

The Department regulates all commercial cannabis license holders in California, including cultivators, manufacturers, retailers, distributors, microbusinesses, testing laboratories, and temporary cannabis events.

The statutes governing the activities of the Department and the regulation of commercial cannabis activity is found in the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) within the Business and Professions Code.

BPC section 26050, subdivision (a) authorizes the Department to issue 15 different commercial cultivation licenses based on three factors: lighting type used by the cultivator, the size of the cultivation operation, the scope of cultivation activities. BPC section 26050, subdivision (c) further provides that a license issued by the Department shall be valid for no more than 12 months from the date it was issued or renewed. Because a cultivation license is issued for a particular commercial cannabis business at a particular premises, material modifications involving changes to total physical size or capacity of the licensed premises, or a change in operations, generally require submittal of a new application for licensure.

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 the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA, BPC §§ 26000 et seq.). BPC section 26249 requires the Department to develop and implement a program to provide waivers or deferrals of application fees, licensing fees, and renewal fees.

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. In addition, section 15014.1 of the Department's regulations outlines the Department's program to provide fee waivers and deferrals of annual license fees to qualified equity applicants or licensees.

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BPC section 26061.5 requires the Department to allow cultivation licensees to make certain changes, including: change the type of size of a cultivation license; place a cultivation license in inactive status; or make a one-time change to a cultivation license's date of renewal.

Statement of Purpose, Problem, Rationale, and Benefits

Under MAUCRSA, there are 15 different cultivation types which are based on the lighting type utilized by the cultivator licensee, the cultivator licensee's operation size, and the scope of the cultivator licensee's cultivation activities. A variety of commercial cannabis market forces – including, but not limited to, market volatility, climate, drought, and oversupply – may persuade a cultivation licensee to reduce their operations and thus their cultivation crop yield. However, there has been no pathway for cultivation licensees to change their state license type to a smaller size or cease operations temporarily, without having to reapply for licensure and pay the application and licensing fees associated with submitting a new application for licensure.

On October 13, 2023, Governor Gavin Newsom signed California Senate Bill 833 to assist licensed cultivators. This chaptered bill, codified in BPC section 26061.5 requires the Department to allow cultivation licensees to make certain changes, including: change the type of size of a cultivation license; place a cultivation license in inactive status; or make a one-time change to a cultivation license's date of renewal.

Allowing for cultivation license changes such as changes to the type of size of a cultivation license or placing the cultivation license in inactive status gives cultivator licensees more control over their operations. Processing these types of changes will eliminate the need for cultivation licensees to submit new applications for licensure if certain material changes are made to their cultivation licenses, thereby reducing administrative burdens on cultivation licensees and the Department. Moreover, cultivation licensees will be able to respond to commercial cannabis market fluctuations in a timely manner by adjusting their operations at the time of renewal, while maintaining state commercial cannabis licensure at reduced administrative and financial costs. Allowing such changes at renewal, allows cultivators, who may otherwise drop out of the regulated commercial cannabis market due to unforeseen market forces, to retain licensure while operating at a reduced size or ceasing operations temporarily.

Allowing for a one-time change to a cultivation license's date of renewal provides cultivation licensees more control as to when they submit their renewals and remit their annual licensing fees to the Department. BPC section 26050, subdivision (c) provides that a license issued by the Department shall be valid for up to 12 months from the date it was issued or renewed. The date of license issuance is dependent upon when the Department completes its review of an application for licensure, which could occur at any point during the calendar year. If the date of renewal falls prior to or during harvest, this can be administratively and financially burdensome for a cultivation licensee. This is largely due to the cyclical nature of commercial cannabis cultivation; the time period

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leading up to harvest can be labor intensive and often cultivation licensees have less financial capital prior to selling their harvest. In contrast, a cultivation licensee may have more time to process administrative submittals and more financial capital available to pay annual license fees following a harvest. The ability to modify the date of expiration on a license will provide cultivation licensees the opportunity to plan their time and financial resources around the busy harvest season.

The Department's processing of these changes for cultivation licensees will not only further the stated intent of MAUCRSA by reducing barriers to maintaining licensure in the regulated commercial cannabis industry but will aid the state in its goal of reducing the illegal cannabis market by keeping more people in the regulated marketplace.

Specific Purpose, Necessity, and Rationale for Adoption

The Department proposes to adopt sections 15020.1, 15020.2, and 15020.3 of Division 19, of title 4, of the CCR, as follows.

Section 15020.1. Cultivation License Limited Operations Status.

BPC section 26061.5 requires the Department to allow active cultivation licensees to place a cultivation license in inactive status. Accordingly, the Department proposes adopting section 15020.1 to establish the process for a cultivation licensee to request such changes.

Proposed subsection (a) provides that active cultivation licensees may place a cultivation license in Limited Operations Status. This section is necessary because it clarifies the types of cultivation license changes available pursuant to this section, consistent with BPC section 26061.5. Since adoption of the Department's emergency regulations, the Department has received a number of inquiries from licensees seeking to request changes to their cultivation license after it has expired during the late renewal process. To that end, the proposed regulation clarifies that only "active" cultivation licensees may request to be placed in Limited Operations Status. Not only does this ensure that cultivation licensees are able to comply with the conditions associated with their Limited Operations Status, but it encourages cultivation licensees to keep their cultivation licenses active and in good standing to avail themselves of this type of license change.

Proposed subsection (b) defines the term "Limited Operations Status" as an inactive license status. While BPC section 26061.5 uses the term "inactive status" for cultivation licensees who will not be in operation during the annual license term, such status is already utilized in the Department's licensing system for former Department licensees that are non-operational. Accordingly, the Department determined that the term "Limited Operations Status" is necessary to distinguish cultivation licensees that temporarily cease activities pursuant to BPC section 26061.5, from existing classifications utilized in the Department's online licensing system. Moreover, this term recognizes that a

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cultivation license with this applied status may still engage in the limited activities enumerated in BPC section 26021.5, subdivision (c)(1).

Proposed subsections (b)(1) and (b)(2) further clarify that cultivation licensees that have been placed in Limited Operations Status may continue to engage in the drying, curing, grading, trimming, packaging, and sale of cannabis harvested before the date the cultivation license status became effective, or possess and maintain seeds and immature plants used solely for propagation to preserve the genetic lineage of the cultivation licensee's cannabis plants. These activities are a restatement of BPC section 26061.5, subdivision (c)(1) and are included here for convenience and clarity.

Proposed subsection (c) clarifies that mature plants are prohibited on the premises of a cultivation license in Limited Operations Status. This subsection is intended to clarify the duties and responsibilities of a cultivation licensee that holds a license in Limited Operations Status and is necessary for consistency with BPC section 26061.5, subdivision (c)(1). Per statute, inactive cultivation licensees may only engage in the drying, curing, grading, trimming, packaging, and sale of cannabis harvested before the date the license status was applied, and possess or maintain seeds and immature plants used solely for propagation to preserve the genetic lineage of the cultivation licensee's cannabis plants. Proposed subsection (c) further clarifies that mature plants that have not been harvested prior to the cultivation license being placed in Limited Operations Status shall be destroyed by the cultivation licensee within 30 days. Because BPC section 26061.5, subdivision (c) limits a licensed cultivator's ability to maintain mature plants on the licensed premises while inactive, this language is necessary to inform cultivation licensees on how to handle mature plants that are at their licensed premises at the time that the Limited Operations Status is applied to their cultivation license, or that develop on their licensed premises during the Limited Operations Status license period. The Department determined that 30 days is a reasonable amount of time for a cultivation licensee to destroy and dispose of any mature plants that develop on the licensed premises during the Limited Operations Status period.

Proposed subsection (d) clarifies how cultivation licensees may place their license in Limited Operations Status and specifies the information that is required to accompany such requests. To that end, proposed subsection (d)(1) provides that a cultivation licensee must specify, on the license renewal form described in section 15020(d), the request to place the cultivation license in Limited Operations Status. This subsection informs cultivation licensees that the Department will only consider written requests to be placed in Limited Operations Status on the Department's license renewal form.

Proposed subsection (d)(2) clarifies that in addition to submitting a request to be placed in Limited Operations Status, the cultivation licensee must remit 20 percent of the applicable annual license fee for the cultivation licensee's current license type, required by section 15014 or section 15014.2 to the Department. This subsection is necessary to inform cultivation licensees of the reduced annual license fee that they are responsible

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for remitting to the Department at the time of their request. BPC section 26061.5, subdivision (c)(3) provides that a cultivation licensee who has been placed in an inactive status shall pay a reduced fee in an amount determined by the Department. Based on the *Economic and Fiscal Analysis, Limited Operations Cultivation Licenses* prepared by ERA Economics, LLC, the Department determined that 20 percent of the applicable annual license fee for the licensee's current license type pursuant to section 15014 or 15014.2 is appropriate because it satisfies the requirements of BPC section 26061.5, subdivision (c)(3) for a reduced fee and is economically beneficial to cultivators using the Limited Operations Status. This reduced annual license fee would also encourage continued market participation by allowing licensed cultivators a way to stay in the regulated commercial cannabis market at a reduced monetary cost, without having to reapply for annual licensure. Moreover, this fee would also cover some of the Department's costs related to licensing and compliance, Department activities which would continue to be necessary for cultivation licenses engaging in limited operations.

Proposed subsection (d)(3) provides that a cultivation licensee requesting to be placed in Limited Operations Status must also satisfy all outstanding renewal requirements pursuant to sections 15001.2 and 15020 if applicable. This subsection clarifies to cultivation licensees that the submittal of a request to be placed in Limited Operations Status does not eliminate their duty to satisfy all outstanding requirements for licensure renewal for their applicable license, as enumerated in sections 15001 and 15020 of the Department's regulations.

Proposed subsection (e) provides that the Department shall verify that all requirements to place the cultivation license in Limited Operations Status have been met. This proposed subsection also indicates that upon confirming the requirements have been met, the Department shall notify the cultivation licensee in writing that the requirements to place the cultivation license in Limited Operations Status have been met. This subsection is necessary because it not only ensures that qualified cultivation licensees enter Limited Operations Status, but it informs cultivation licensees of the mechanism that the Department will use to document that its review is complete and the requirements for their request have been satisfied.

Proposed subsection (f) clarifies that Limited Operations Statuses granted pursuant to this section shall remain in effect for the duration of the license term and that the cultivation licensee may request to place their license in Limited Operations Status at each subsequent renewal. This section is necessary to inform cultivation licensees of their license change options at the time of subsequent renewal, consistent with BPC section 26061.5, subdivision (c)(2).

Proposed subsection (g) clarifies that the section does not apply to certain cultivation licenses, including nursery licenses, processor licenses. BPC section 26061.5, subdivision (c)(1) clarifies the types of activities that cultivation licensees in limited operations status may engage in, allowing for: (A) the drying, curing, grading, trimming, packaging, and sale of cannabis harvested before the date the cultivation license was

placed in inactive status; and (B) possession and maintenance of seeds and immature plants used solely for propagation to preserve the genetic lineage of the cultivation licensee's cannabis plants. Because nursery licensees and processor licensees may already engage in the activities identified by BPC section 26061.5(c)(1), application of a Limited Operations Status would have minimal effect on such licensees' day-to-day activities. Accordingly, the Department determined that nursery and processor licenses do not qualify for Limited Operations Status under this section.

Proposed subsection (h) specifies that licenses that are changed to a Reduced-Size Cultivation License pursuant to section 15020.2 shall also not be placed in Limited Operations Status during the same license term. The Department determined it was necessary to clarify that cultivation licensees may request to either place a cultivation license in limited operations status or change an Original Cultivation License to a Reduced-Size License, but not both. The Department determined that a restriction on the types of changes that can be made in the same renewal period is necessary because the Department has determined that adjusting the size of a mature plant canopy through a cultivation license type change is incompatible with the application of a limited operations status in the Department's online license system; in limited operations status there is no mature plant canopy to reduce.

Section 15020.2. Cultivation License Reductions in Size.

BPC section 26061.5 requires the Department to allow cultivation licensees to change the type of size of a cultivation license. Accordingly, the Department proposes adopting section 15020.2 to establish the process for a cultivation licensee to request such changes.

Proposed subsection (a) provides that active cultivation licensees may change an Original Cultivation License to a Reduced-Size Cultivation License. This section clarifies the types of cultivation license changes allowable based on BPC section 26061.5. Since the adoption of the Department's emergency regulations, the Department has received a number of inquiries from licensees seeking to request changes to their cultivation license after it expired during the late renewal process. To that end, the proposed regulation clarifies that only "active" cultivation licensees may request to change to a Reduced-Size Cultivation License. Not only does this ensure that cultivation licensees are able to comply with the conditions associated with their Reduced-Size Cultivation License, but it encourages cultivation licensees to keep their cultivation licenses active and in good standing to avail themselves of this type of license change.

Proposed subsection (b) identifies definitions that are relevant to the proposed regulations. Proposed subsection (b)(1) defines the term "Original Cultivation License" as the provisional or annual cultivation license type that was indicated on the license prior to any reduction in size pursuant to the section. This terminology provides a short and succinct means of referring to the original license type identified in the Department's online license system. This language also recognizes that, since the time an original application for licensure was submitted, a cultivation licensee may have

converted preexisting cultivation licenses to a Large or Medium Cultivation license pursuant to section 15027.1. Such Large or Medium Cultivation licenses would be considered the Original Cultivation License for the purposes of this section.

Proposed subsection (b)(2) defines the term “Reduced-Size Cultivation License” as a cultivation license type that has a smaller maximum canopy size than the Original Cultivation License and uses the same type of lighting as the Original Cultivation License (e.g., Indoor, Outdoor, Mixed-Light Tier 1, or Mixed-Light Tier 2). This is necessary to provide a short and succinct means of referring to the new cultivation license type with a smaller maximum canopy size than the Original Cultivation License. Clarifying that the lighting utilized by the Reduced-Size Cultivation License should be the same as the Original Cultivation License is essential because changes to cultivation lighting type could be considered a major modification potentially resulting in additional environmental impacts; such environmental impacts would necessitate further review and consideration by the Department pursuant to the California Environmental Quality Act. (CEQA, Pub. Resources Code, § 21000 et seq.)

Proposed subsection (c) clarifies what a cultivation licensee shall submit to the Department to obtain a cultivation license type change. Specifically, proposed subsection (c)(1) provides that a cultivation licensee shall specify, on the license renewal form described in section 15020(d), the request to the Department to change the Original Cultivation License to a Reduced-Size Cultivation License. The request shall identify the Reduced-Size Cultivation License a cultivation licensee wants to transition their Original Cultivation License to. This subsection is intended to inform cultivation licensees that the Department will only consider written requests for a Reduced-Size Cultivation License on the Department’s license renewal form.

Proposed subsection (c)(2) clarifies that, in addition to submitting a written request to change to a Reduced-Size Cultivation License, a cultivation licensee must also submit an updated premises diagram for the cultivation license that satisfies the requirements of section 15006 and identifies the canopy areas of the Original Cultivation License and the canopy areas for the Reduced-Size Cultivation License. This section is necessary to clarify the specific information that is required to be included on a premises diagram at the time of a license type change request. BPC section 26051.5, subdivision (c) requires that an applicant for licensure provide a complete detailed diagram of the requested premises wherein the license privileges will be exercised, with sufficient particularity to enable ready determination of the bounds of the premises. Department staff often physically inspect the premises of commercial cannabis licensees and rely on the licensee’s premises diagram during such inspections. This change ensures that Department staff have accurate, up-to-date information regarding the activities they can expect on the licensed premises. Proposed subsection (c)(2) further states that the Reduced-Size Cultivation License canopy area shall be located within the canopy area of the original license. The Department determined it was necessary to clarify that the canopy area of the Reduced-Size Cultivation License should be within the footprint of the Original Cultivation License, because reconfigurations of the cultivation premises

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could be considered a major modification potentially resulting in additional environmental impacts; such environmental impacts would necessitate further review and consideration by the Department pursuant to CEQA. (Pub. Resources Code, 21000 et seq.)

Proposed subsection (c)(3) provides that the cultivation licensee must also remit the annual license fee due for the Reduced-Size Cultivation License pursuant to section 15014 or 15014.2. The Department's licensing fees are based on license type, are scaled to the size of the business entity licensed, and are reflective of the Department's administrative cost associated with each license type. Accordingly, this language ensures that cultivation licensees remit the appropriate fees that correspond to their licensed activities.

Proposed subsection (c)(4) provides that a cultivation licensee requesting to change to a Reduced-Size Cultivation License must also meet all renewal requirements pursuant to sections 15001.2 and 15020, if applicable. This subsection clarifies to cultivation licensees that submitting a request for a Reduced-Size Cultivation License does not eliminate their duty to satisfy all outstanding requirements for licensure renewal for their applicable license, as enumerated in sections 15001 and 15020 of the Department's regulations.

Proposed subsection (d) provides that the Department shall verify that all requirements to change the cultivation license type have been met. This ensures that only cultivation licensees that meet the relevant requirements can change their license type. This proposed subsection also indicates that upon confirming the requirements have been met, the Department shall notify the cultivation licensee in writing that the requirements to change license types have been met. Because the Department already routinely communicates to licensees in writing regarding their licenses, the Department determined that written notification is a reasonable mechanism of informing cultivation licensees that the Department's review is complete and the requirements for a license change request have been satisfied.

Proposed subsection (e) provides that Reduced-Size Cultivation License changes granted pursuant to this section shall remain in effect for the license term. This subsection further clarifies that at each subsequent renewal, the cultivation licensee has the option to: (1) Retain the Reduced-Size Cultivation License; (2) Change to a different Reduced-Size Cultivation License; or (3) Restore the Original Cultivation License. This section is intended to inform cultivation licensees of how long a Reduced-Size Cultivation License will remain in effect, as well as their license change options at the time of subsequent renewal, consistent with BPC 26061.5, subdivision (b)(2).

Proposed subsection (f) clarifies additional considerations for provisional licensees seeking Reduced-Size Cultivation License changes pursuant to this section. Specifically, proposed subsection (f) clarifies that a provisional cultivation licensee shall continue to actively and diligently pursue the requirements for annual licensure, as required by section 15001(d). The provisional cultivation licensee may pursue annual

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licensure for either the Original Cultivation License or a Reduced-Size Cultivation License. This is a restatement of BPC section 26061.5, subdivision (b)(3), which is necessary for the ease and convenience of cultivation licensees.

Proposed subsection (f)(1) clarifies that the provisional cultivation licensee shall immediately notify the Department in writing if it chooses to pursue annual licensure for a Reduced-Size Cultivation License and inform the Department of the annual cultivation license type they are pursuing. This subsection is necessary to inform cultivation licensees that the Department will only consider written requests from provisional cultivation licensees if they wish to change the annual license type they are pursuing. The Department must ensure that for the purposes of transitioning a provisional cultivation license to an annual license, it is reviewing accurate application and licensing information to make an informed determination. Accordingly, the Department determined that it was necessary to inform cultivation licensees that they must provide their notification as soon as they determine which license they intend to pursue. Moreover, the Department determined it was necessary to clarify how cultivation licensees may submit their notifications; email was determined to be an efficient mechanism for licensees to notify the Department, thereby ensuring the Department's timely review and consideration of such requests. Further, to ensure that the Department reviews and considers notifications for the appropriate license, this subdivision clarifies that as part of a cultivation licensee's notification, they should identify the license application number, as well as the annual license type that the provisional licensee is pursuing.

Proposed subsection (f)(2) clarifies that, notwithstanding subsection (b)(1), after the issuance of an annual cultivation license, that cultivation license shall be considered the cultivation licensee's Original Cultivation License for the purposes of this section. This is necessary because it makes clear to licensees that by pursuing annual licensure for a maximum canopy size of their choosing, they would be able to revert back to that larger cultivation license type at a subsequent renewal period.

Proposed subsection (g) clarifies that the section does not apply to certain cultivation licenses, including nursery licenses and processor licenses. The Department determined that nursery and processor licenses do not qualify for a Reduced-Size License under this section because such licensees do not have a mature plant canopy to reduce in size.

Proposed subsection (h) specifies that a cultivation license placed in Limited Operations Status pursuant to section 15020.1 shall not be changed to a Reduced-Size Cultivation License during the same license term. The Department determined it was necessary to clarify that cultivation licensees may request to either place a cultivation license in limited operations status or change an Original Cultivation License to a Reduced-Size Cultivation License, but not both. The Department determined that a restriction on the types of changes that can be made in the same renewal period is necessary because adjusting the size of a mature plant canopy through a cultivation license type change is

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incompatible with the application of a limited operations status in the Department's online license system; in limited operations status, there is no mature plant canopy to reduce.

Section 15020.3. Modifying Cultivation License Renewal Date.

BPC section 26061.5 requires the Department to allow active cultivation licensees to make certain changes, including making a one-time change to a cultivation license's date of renewal. Accordingly, the Department proposes adopting section 15020.3 to establish the process for a commercial cannabis business licensee to request such changes.

Proposed subsection (a) provides that active cultivation licensees may modify a cultivation license's date of renewal. This subsection is a restatement of BPC section 26061.5, subdivision (d) regarding cultivation licensees' ability to modify their date of renewal. Since adoption of the Department's emergency regulations, the Department has received a number of inquiries from licensees seeking to request changes to their cultivation license after it has expired. To that end, the proposed regulation clarifies that only "active" cultivation licensees may request to modify their license renewal date. Allowing only "active" cultivation licensees to request to modify their renewal dates encourages cultivation licensees to keep their cultivation licenses active and in good standing to avail themselves of this type of license change. Moreover, this ensures that the Department is able to accurately calculate the amount of licensing fees that must be paid for the Modified License Term or the amount that will be refunded to the cultivation licensee by the Department pursuant to proposed subsection (g), below.

Proposed subsection (b) defines the term "Modified License Term" as a period of time that falls between submission of a cultivation licensee's request to modify a license date of renewal and the requested modified renewal date. The Department determined that this definition is necessary for clarity to distinguish the licensure term that results from the Department's processing of the modified license renewal date, in a short and succinct manner.

Proposed subsection (c) defines the term "Original Renewal Date" as the scheduled date of renewal indicated on the cultivation license, prior to any renewal date modification pursuant to this section. The Department determined that this definition is necessary for clarity to distinguish the modified renewal date from the scheduled date of renewal originally indicated on the cultivation license in a short and succinct manner.

Proposed subsection (d) defines the term "Prorated Daily License Fee" as the prorated license fee for one calendar day, which shall be calculated by dividing the applicable annual license fee by 365. The subsection further provides that the applicable annual license fee shall be the license fee required by section 15014, section 15014.2, or section 15020.1(d)(2). To ensure that cultivation licensees are remitting the appropriate fees for the appropriate license terms, the Department determined it was necessary for administrative ease and clarity to provide instructions on how to calculate prorated daily

license fees. These instructions will not only aid stakeholders in determining the appropriate fees for their license, but Department staff in implementing the provisions of this section. This term also enables the Department to refer to these calculations within the regulations, in a short and succinct manner.

Proposed subsection (e) informs cultivation licensees about what information they shall submit to modify their renewal date. Specifically, proposed subsection (e) provides that in order to modify the renewal date of a cultivation license, the licensee shall submit to the Department a request through the Department's online licensing system. The Department determined it was necessary to provide clarity regarding how cultivation licensees may submit requests to modify a renewal date. Similar to other licensee submittals processed by the Department, the Department will consider requests that are submitted via the Department's online licensing system. Proposed subsection (e) further identifies the specific information that shall be provided by a cultivation licensee requesting to modify their renewal date.

Proposed subsection (e)(1) requires requesting cultivation licensees to provide the name of the licensee making the request. Requiring the name of the licensee that is requesting the modification is necessary for administrative ease and clarity, and ensures that the Department considers modified renewal dates for the appropriate licensee.

Proposed subsection (e)(2) requires requesting licensees to provide the license number and current expiration date. The Department determined that requiring the license number and current expiration date is necessary for administrative ease and clarity, and ensures that the Department has all necessary information to process the request and considers modified renewal dates for the appropriate cultivation licensee.

Proposed subsection (e)(3) requires requesting licensees to identify a requested modified renewal date that is on or after the date of submission of all the information required by this section to the Department. The Department determined that requiring the cultivation licensee to identify a requested modified renewal date is necessary for clarity, as it ensures that the Department has all relevant information required to process the request. Licensees cannot retroactively change their past commercial cannabis activities that have already been exercised under their license; accordingly, the Department determined that it was necessary to clarify to cultivation licensees that they may only identify a modified renewal date that is on or after the date of submission of their request.

Proposed subsection (e)(4) allows requesting cultivator licensees to concurrently identify whether they are also requesting to be placed in Limited Operations Status pursuant to section 15020.1, or make a change in cultivation license size pursuant to section 15020.2 to effectuate the changes allowed by the statute. Moreover, the Department has determined requesting information for concurrent requests is necessary for administrative ease; it enables the Department to process all pending cultivation license requests in an efficient and timely manner.

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Finally, proposed subsection (e)(5) requires a requesting cultivation licensee to provide the name, phone number, email address, and signature of the designated primary contact person or designated responsible party for the cultivation licensee submitting the request. Oftentimes, the Department has found that as it reviews licensee submittals, it has clarifying questions that must be directed to the licensee. The Department determined it is necessary to clarify that cultivation licensees should provide an appropriate point of contact in case the Department must reach out for additional information related to the request.

Proposed subsection (f) provides that the Department shall verify that all requirements for modifying a cultivation license renewal date have been met. This ensures that only cultivation licensees that meet the requirements will qualify for a modified renewal date. This proposed subsection also indicates that upon confirming the requirements have been met, the Department shall notify the cultivation licensee in writing that the requirements for the requested modified renewal date have been met and shall disclose the fees the cultivation licensee must pay for the modified license term or the amount that will be refunded by the Department. Because the Department already routinely communicates to licensees in writing regarding their licenses, the Department determined that written notification is a reasonable mechanism of informing cultivation licensees that the Department's review is complete and the appropriate fee that is due or is to be refunded.

Proposed subsection (g) provides an overview of how the Department will determine fees that must be paid for the Modified License Term or the amount that will be refunded by the Department. This subsection is necessary because it provides clear instructions for stakeholders and Department staff regarding how license fees will be calculated upon the processing of a request for a modified renewal date.

To that end, proposed subsection (g)(1) provides instructions on how to determine the gross amount of any credit due from the Department to the licensee. A license fee paid by a licensee is generally applied to the 12-month license period. A modification of a license renewal date will go into effect prior to the expiration of the existing license. Since such cultivation licensees have already paid a license fee for the entire 12-month period and there will likely be time remaining on the existing license, the Department determined that it is appropriate to calculate the appropriate credit for the cultivation licensee seeking a modified renewal date.

Proposed subsection (g)(1)(A) provides that, in order to determine the gross amount of any credit due from the Department to the cultivation licensee, it must first determine the Prorated Daily License Fee for the current license. The Department determined that this calculation is necessary, because it provides an accurate calculation of the prorated daily license fees for the license subject to the request. This is an integral step in calculating the amount of credit due to a cultivation licensee for fees paid.

Proposed subsection (g)(1)(B) provides that the Prorated Daily License Fee shall then be multiplied by the number of days the current license would have remained valid in the absence of any change to its renewal date, counting from the date the cultivation licensee submitted a request under this section until the Original Renewal Date. The Department determined that this subsection is necessary because this calculation provides a clear and fair mechanism to prorate the resulting amount of excess fees paid on the license subject to the modification for the period of time between the date the request was made and the Original Renewal Date.

Proposed subsection (g)(2) provides instructions on how to determine the gross amount of the fee due from the cultivation licensee to the Department for the Modified License Term. A modification of a license renewal date will go into effect prior to the expiration of the existing license. Such cultivation licensees may also couple their request to modify a renewal date with a request to enter Limited Operations Status or to change to a Reduced-Size Cultivation License. This is necessary to implement the intent of the statute by allowing licensees to take advantage of the new options immediately upon implementation. The Department determined that calculating the gross amount of fee due from the cultivation licensee to the Department for the Modified License Term is a clear and fair mechanism to calculate the amount of fee due for the period of time the cultivation licensee begins operating under the new renewal date.

Proposed subsection (g)(2)(A) provides that, in order to determine the gross amount of the fee due from the cultivation licensee to the Department, it must first determine the Prorated Daily License Fee for the Modified License Term. The Department determined that this calculation is necessary, because it provides an accurate calculation of the prorated daily license fees for the cultivation license once any modifications to the license are applied. This is an integral step in calculating the amount owed by a cultivation licensee for the Modified License Term.

Proposed subsection (g)(2)(B) provides that the Prorated Daily License Fee shall then be multiplied by the number of days remaining on that cultivation license, counting from the date the licensee submitted a request under this section until the licensee's requested modified date of renewal. The Department determined that this subsection is necessary because this calculation provides a clear and fair mechanism to prorate the amount of fees owed on the cultivation license subject to the request, for the Modified License Term.

Proposed subsection (g)(3) provides instructions on how to calculate the net difference between the gross amount of any credit due from the Department, and the gross amount of fee due from the cultivation licensee to the Department. The Department determined that this calculation is necessary for administrative ease and clarity because it allows the Department to make an efficient calculation of the net amount of fees owed or to be refunded, rather than administering separate, individual transactions, which could take additional time to process and lead to further confusion.

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Proposed subsection (g)(3)(A) provides that where the gross amount of credit due under subsection (g)(1) exceeds the gross amount of fee due under subsection (g)(2), the net difference shall be refunded to the cultivation licensee by the Department. As license fees are based on license type, are scaled to the size of the business entity licensed, and are reflective of the Department's administrative cost associated with each license type, the Department determined that this calculation was necessary to ensure that cultivation licensees are only responsible for remitting fees that are consistent with the licensee's actual reported operations. Proposed subsection (g)(3)(A) further provides that refunds issued by the Department shall not exceed the license fee subject to the modified license term. Refunding fees in excess of the license fee subject to the modified license term would result in a negative balance with the Department, with fees not properly apportioned for the cultivation licensee's desired commercial cannabis activity. This language is included for clarity in the Department's refund calculations.

Proposed subsection (g)(3)(B) provides that where the gross amount of credit due under subsection (g)(1) is less than the gross amount of the fee due under subsection (g)(2), the cultivation licensee shall pay that net difference to the Department. As license fees are based on license type, are scaled to the size of the business entity licensed, and are reflective of the Department's administrative cost associated with each license type, the Department determined that this calculation was necessary to ensure that licensees are responsible for remitting fees that are consistent with the licensee's actual reported operations. Proposed subsection (g)(3)(B) further provides that payment shall be due within 30 calendar days of the notification from the Department required by subsection (f). Requiring payment within 30 calendar days is consistent with the time period identified by the Department for similar submittals and is included for administrative ease and clarity. It also is intended to encourage cultivation licensees to remit fees in a timely manner, thereby ensuring that they are not subject to late fees for failure to remit timely payment.

Proposed subsection (h) provides that, notwithstanding section 15014.1(h)(1), cultivation licensees who have obtained a fee deferral pursuant to section 15014.1 shall pay all license fees in full within six months of the deferral being granted, or prior to the modified renewal date, whichever is sooner. The Department determined that enabling cultivation licensees who have requested a modified license term to defer their license fees in this manner was necessary and consistent with section 15014.1(h)(1), which allows for deferrals for six months. In situations where the renewal would fall prior to a typical six-month deferral date, the Department determined that tendering all fees prior to license renewal was necessary to ensure that all licensing fees are remitted as required by the Act, and that cultivation licensees do not put themselves in the position of creating large "balloon payments" over time. Moreover, due to the administrative burdens associated with license renewal processing, it is necessary for the Department to require all licensing fees prior to the conclusion of the modified license term.

Initial Statement of Reasons

Proposed subsection (i) provides that cultivation licensees may request to be placed in Limited Operations Status pursuant to section 15020.1 or change to a Reduced-Size Cultivation License pursuant to 15020.2 for the duration of the modified license term. Since adopting the emergency regulations, the Department has received some inquiries regarding the effective date of Limited Operations Statuses or Reduced-Size Cultivation Licenses when requested at the same time as a modified license date. The Department determined that it was necessary to clarify that such changes are to be applied during the Modified License Term. This is consistent with BPC section 26061.5, which describes the certain changes a cultivation licensee may make at the time of renewal.

Proposed subsection (j) provides that a cultivation licensee may only modify the renewal date of a cultivation license pursuant to this section once for each cultivation license. This language is necessary to clarify to prospective requestors that, consistent with BPC section 26061.5, subdivision (d), the Department will not consider multiple requests to change the date of license expiration. Once the date of expiration has been changed on a license, each subsequent renewal of the license will be for a 12-month licensure term, as enumerated in BPC section 26050, subdivision (c).

Incorporation by Reference

No documents have been incorporated by reference.

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

1. ERA Economics, LLC. *Economic and Fiscal Impact Analysis, Limited Operations Cultivation Licenses* (February 2024).

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 active cultivator licensees to make certain changes to their cultivation licenses, which may result in a reduction in license fees or a one-time adjustment to the license renewal date. Requesting changes to an active cultivation license is voluntary and only requires submission of information to establish eligibility for the requested changes.

The Department initially implemented the cultivation license change program on March 11, 2024. Based on currently available information, the Department believes that there are approximately 2,953 distinct cultivation businesses, each of which may hold multiple licenses, that could be eligible to make changes under the proposed regulations. The businesses impacted by the regulation are cultivation licensees who wish to change the type of size of a cultivation license; place a cultivation license in inactive status; or make a one-time change to a cultivation license's date of renewal.

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Estimated Costs to Businesses

The proposed regulations require cultivation licensees to complete and submit certain information prescribed by the Department to request changes to a cultivation license. Cultivation licensees who use the Limited Operations Status established by statute would be able to pay a reduced license fee at a minor administrative cost. However, cultivators will incur some administrative costs associated with the proposed regulations, including time spent reviewing the new regulations, deciding on what actions to take, and filing the necessary submittals associated with the Limited Operations Status, temporary license size change, and one-time license renewal date change. The total direct cost of administrative and consultant costs incurred under the proposed regulations amounts to approximately \$1,722,669 per year.

Estimated Benefits of Regulation

The Department anticipates that the proposed regulations would allow cannabis cultivation licensees who use the Limited Operations Status established by statute to pay a reduced license fee. They also facilitate the statutory requirements to allow cultivators to change licenses sizes and to change the renewal date of licenses. Between the license fee savings for cultivation licensees entering Limited Operations Status, and the savings associated with renewal date changes, the proposed regulations would amount to direct economic benefits of approximately \$2,892,494.

The proposed regulations could also indirectly result in the expansion of cannabis cultivation businesses by allowing more businesses to stay in the market in the long run, which would facilitate the potential expansion of businesses when market conditions are favorable. The regulatory framework would allow for the retention of licensed cultivators in the licensed cannabis market, while discouraging transitions to the unlicensed market. Thus, the Department's ability to enable certain license changes under BPC section 26061.5 will further the stated intent of MAUCRSA by reducing barriers to maintaining licensure in the regulated commercial cannabis industry.

Economic Impact Assessment

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

The proposed regulations would result in a net decrease of 85.7 full-time equivalent (FTE) jobs. Notably, this net reduction is a short-term impact on employment resulting from cultivators no longer producing at a loss during years with poor market conditions. In the long run, more firms would stay in the licensed market and employ workers.

The proposed regulations would neither create nor eliminate businesses.

The proposed regulations would affect approximately 2,953 distinct businesses. These businesses are licensed cannabis cultivators, each of which may have multiple licenses. Of these businesses an unknown number are estimated to meet the criteria for being

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classified as a small business. The representative costs for a typical business to request cultivation license changes under the proposed regulations would equal \$750 to \$9,713 in the initial year, with annual ongoing costs of \$750 to \$7,813 per year. However, the proposed regulations allow cannabis cultivation licensees who use the limited operations status established by statute to pay a reduced license fee. They also facilitate statute allowing cultivators to change license sizes and to change the renewal date of licenses, amounting to total statewide benefits in approximately \$2,892 million per year.

The proposed regulations could indirectly result in the expansion of cannabis cultivation businesses by allowing more businesses to stay in the market in the long run, which would facilitate more potential expansion of businesses when market conditions are favorable.

The proposed regulations would not affect worker safety.

The proposed regulations would provide benefits to public health and safety by retaining cultivation businesses in the licensed cannabis market, and discouraging transitions to the unlicensed market.

Fiscal Effect on State Government

The primary fiscal impact of the proposed regulations to the Department is changes in Department revenue from license fees as a result of cultivators that obtain Limited Operations Status. The Department determined that the reduced licensing fees associated with entering Limited Operations Status would result in an estimated net reduction in license fees of \$1,914,694. This includes a reduction in fees due to cultivators that opt to use the Limited Operations Status instead of producing and paying their full license fee, and an increase in fees due to more cultivators staying in the licensed market in the long run. The Department's staff workload associated with processing cultivation license changes under these regulations can be absorbed by existing staff.

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 processing cultivation license changes under these regulations can be absorbed by existing staff. However, the reduced licensing fees associated with entering Limited

Operations Status would result in an estimated net reduction in license fees of \$1,914,694.

Cost 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 regulations 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. Alternative No. 1: Not adopt the regulations. This alternative was rejected because BPC section 26061.5 requires the Department to provide cultivation licensees an opportunity to make certain changes, including: changing the type of size of a cultivation license; placing a cultivation license in inactive status; or making a one-time change to the license's renewal date. If the Department does not adopt regulations, there will be no specific process for applicants and licensees to follow to make changes to their existing cultivation licenses.
2. Alternative No. 2: Impose a larger fee to enter Limited Operations Status. This alternative was rejected because it would provide insufficient benefits to cultivators that elect to use the Limited Operations Status. The purpose of the Limited Operations Status option is to allow cultivators to save costs during times with adverse market conditions. Reducing the fees paid by cultivators using the limited operations by only 50 percent would save cultivators substantially less than under the proposed regulations. While the fiscal impact of this alternative would be less of a reduction in gross revenue from license fee revenue for the Department, it would not encourage as much participation in using the Limited Operations Status.
3. Alternative No. 3: Do not impose a fee to enter Limited Operations Status. Although this alternative would maximize benefits for cultivators who wish to enter Limited Operations Status and maximize participation, this alternative was rejected because it would not cover any costs for the Department to conduct activities related to licensing and compliance, which would continue to be necessary for licenses in limited operations.

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