

**BUREAU OF CANNABIS CONTROL  
CALIFORNIA CODE OF REGULATIONS TITLE 16, DIVISION 42  
MEDICINAL AND ADULT-USE CANNABIS REGULATION**

January 15, 2019

**ADDENDUM TO THE FINAL STATEMENT OF REASONS**

**BACKGROUND**

On December 7, 2017 the Bureau of Cannabis Control (Bureau) adopted emergency regulations to clarify and make specific licensing and enforcement criteria for commercial cannabis businesses under the Medicinal and Adult-Use Regulation and Safety Act (MAUCRSA or the Act). On June 6, 2018 the Bureau readopted the emergency regulations. On July 13, 2018 the Bureau issued a Notice of Proposed Rulemaking and began a 45-day comment period on the proposed regulations. The Bureau held public hearings on August 7, 2018, August 14, 2018, and August 27, 2018 in Oakland, Los Angeles, and Sacramento respectively. The Bureau submitted the proposed regulations package for review by the California Office of Administrative Law (OAL) on December 3, 2018.

The Bureau hereby incorporates this addendum as part of the final rulemaking package. Unless a specific basis is stated for any modification to the purpose, necessity, and rationale for each adoption as initially stated in the Final Statement of Reasons, the purpose, necessity, and rationale for each adoption of the regulations as set forth in the Final Statement of Reasons continues to apply to the regulations as adopted. The modified purpose, necessity, and rationale for the proposed text of the regulations are summarized below. Additionally, the Bureau has made non-substantive grammatical and format changes for accuracy, consistency and clarity.

**MODIFIED PURPOSE, NECESSITY, AND RATIONALE FOR EACH ADOPTION**

**§ 5001. Temporary Licenses.**

The reference section has been amended to remove a reference to section 26050.1 of the Business and Professions Code. This is necessary for accuracy.

**§ 5010.3 Preparation of CEQA Environmental Documents for Applicant**

The title of this section has been changed from “Preparation of CEQA Environmental Documents by Applicant” to “Preparation of CEQA Environmental Documents for Applicant” for accuracy and clarity.

**§ 5020. Renewal of License**

Proposed subsection (c) provides that a licensee may submit a license renewal form for 30 calendar days after the license expires. Licensees are expected to renew their licenses in a timely manner and licensees that routinely submit their renewal forms late may increase the

administrative burden on the Bureau. This requirement intends to deter licensees from routinely submitting late applications, past the 12-month license requirement of the Act, while also providing a reasonable amount of time for licensees to submit the license renewal form if they wish to continue operating.

To further disincentivize licensees from routinely submitting late renewal forms, this subsection imposes a late fee equal to 50 percent of the applicable license fee required in subsection (a) with any late renewal form. The licensure fees are based on estimated revenue for the 12-month license period, a calculation that is easily performed by applicants and licensees that may be easily verified by the Bureau. The Bureau anticipates its licensees will generate revenue anywhere from \$160,000 to more than \$80 million dollars; the corresponding license fees are scaled to reflect the operations of the licensee. The Bureau determined that having licensees only pay the application fee for a late renewal, or a late fee based on a portion of the application fee, would not be enough to disincentivize routine late submittals. In addition to being an effective deterrent to licensees from routinely submitting late renewal forms, the late fee was determined to be nominal when compared to a licensee's lost revenue after having to cease its operations upon license expiration. For example, a late fee for a retail licensee generating more than \$7.5 million would only be subject to a late fee of \$48,000 - a fee that is minimal compared to the lost revenue upon license expiration.

#### **§ 5050. Loss of Connectivity**

The title of the section has been changed from “Loss of Access” to “Loss of Connectivity” for consistency and clarity with terms used throughout the regulations.

#### **§ 5306. Laboratory Testing Results**

In subsection (d)(1), the term “remediation plan” has been changed to “corrective action plan” for clarity and consistency amongst the sections regarding what licensees can do with manufactured cannabis product batches that have failed testing. This section has also been revised for clarity and consistency with the regulations adopted by the California Department of Public Health.

#### **§ 5700. Definitions**

The definition of “tamper-evident” in subsection (ttt) has been removed; the Bureau has determined that this language is duplicative and not necessary. The subsection has been renumbered accordingly.

#### **§ 5815. Emergency Decision and Order.**

The authority for this section has been revised to remove a reference to section 11460.30 of the Government Code. This is necessary for accuracy.

**§ 5900. Eligibility.**

The authority for this section has been revised to remove a reference to section 34019 of the Revenue and Taxation Code. This is necessary for accuracy.

**BUREAU OF CANNABIS CONTROL  
CALIFORNIA CODE OF REGULATIONS TITLE 16, DIVISION 42  
MEDICINAL AND ADULT-USE CANNABIS REGULATION**

**FINAL STATEMENT OF REASONS AND UPDATED INFORMATIVE DIGEST**

**SUBJECT MATTER OF PROPOSED REGULATIONS:** Medicinal and Adult-Use Cannabis Regulation

**SECTION(S) AFFECTED:**

**Adopt**

Cal. Code Regs., Tit. 16, §§5000, 5001, 5002, 5003, 5004, 5005, 5006, 5007, 5007.1, 5007.2, 5008, 5009, 5010, 5010.1, 5010.2, 5010.3, 5011, 5012, 5013, 5014, 5015, 5016, 5017, 5018, 5019, 5020, 5021, 5022, 5023, 5024, 5024.1, 5025, 5026, 5027, 5028, 5030, 5031, 5032, 5033, 5034, 5035, 5036, 5037, 5038, 5039, 5040, 5040.1, 5041, 5041.1, 5042, 5043, 5044, 5045, 5046, 5047, 5048, 5049, 5050, 5051, 5052, 5052.1, 5053, 5054, 5300, 5301, 5302, 5303, 5303.1, 5304, 5305, 5305.1, 5306, 5307, 5307.1, 5307.2, 5308, 5309, 5310, 5311, 5312, 5313, 5314, 5315, 5400, 5402, 5403, 5403.1, 5404, 5405, 5406, 5407, 5408, 5409, 5410, 5411, 5412, 5413, 5414, 5415, 5415.1, 5416, 5417, 5418, 5419, 5420, 5421, 5422, 5423, 5424, 5426, 5427, 5500, 5501, 5502, 5503, 5504, 5505, 5506, 5506.1, 5507, 5600, 5601, 5602, 5603, 5604, 5700, 5701, 5702, 5703, 5704, 5705, 5706, 5707, 5708, 5709, 5710, 5711, 5712, 5713, 5714, 5715, 5717, 5718, 5719, 5720, 5721, 5722, 5723, 5724, 5725, 5726, 5727, 5728, 5729, 5730, 5731, 5732, 5733, 5734, 5735, 5736, 5737, 5738, 5739, 5800, 5801, 5802, 5803, 5804, 5805, 5806, 5807, 5808, 5809, 5810, 5811, 5812, 5813, 5814, 5815, 5900, 5901, 5902, 5903, 5904 and 5905

**BACKGROUND**

On December 7, 2017 the Bureau of Cannabis Control (Bureau) adopted emergency regulations to clarify and make specific licensing and enforcement criteria for commercial cannabis businesses under the Medicinal and Adult-Use Regulation and Safety Act (MAUCRSA or the Act). On June 6, 2018 the Bureau readopted the emergency regulations. On July 13, 2018 the Bureau issued a Notice of Proposed Rulemaking and began a 45-day comment period on the proposed regulations. The Bureau held public hearings on August 7, 2018, August 14, 2018, and August 27, 2018 in Oakland, Los Angeles, and Sacramento respectively. The Bureau received thousands of comments, both oral and written, on the proposed regulations. Based on review of the comments received, the Bureau determined that there were a number of sufficiently related changes to the proposed regulations that were necessary to clarify certain sections and provisions. These changes included clarifying sections and provisions of the regulations that were impacted by recent legislative changes to the Act, such as expanding the locations that temporary cannabis events can be held at and preventing the sell and transport of cannabis goods that are labeled with terms that would create a misleading impression that the product is an

alcoholic beverage. Additional changes included clarifying which individuals in a multi-layer business structure must be disclosed as owners or financial interest holders in an application for a commercial cannabis business and expanding on a distributor's ability to label or re-label cannabis goods with the amounts of cannabinoids and terpenoids after receiving a certificate of analysis for regulatory compliance testing. Pursuant to Government Code section 11346.8, subdivision (c) and section 44 of Title 1 of the California Code of Regulations the Bureau made substantive and sufficiently related changes to the proposed regulations and circulated them to the public for a 15-day comment period.

## **UPDATED INFORMATIVE DIGEST**

There have been no substantial changes in applicable laws or to the effect of the proposed regulations from the laws and effects described in the Notice of Proposed Regulatory Action. However, several bills were passed during the legislative session that modify the Act. Each bill that impacted the Bureau's proposed regulations is summarized below. Further discussion of the bills and their impacts on specific proposed regulations is included in the summary of changes made to the proposed regulations.

Stats. 2018, Chapter 556 (SB 311), which became effective on September 19, 2018, amended Section 26110 of the Business and Professions Code and authorizes a licensed distributor to transport cannabis or cannabis products that are fit for sale to the premises of another licensed distributor for further distribution.

Stats. 2018, Chapter 857 (SB 1459), which became effective on September 27, 2018, added Section 26050.2 to the Business and Professions Code and, until January 1, 2020, authorizes a licensing authority to issue a provisional license for commercial cannabis activity if the applicant holds or held a temporary license for the same premises and the same commercial cannabis activity. The bill requires a provisional license to be valid for 12 months and prohibits the license from being renewed. The bill requires the provisions of the Act to apply to a provisional license in the same manner as an annual license, except as specified and exempts the issuance of a provisional license from the California Environmental Quality Act (CEQA). The bill also prohibits the refusal by the licensing authority to issue a provisional license or revocation or suspension by the licensing authority of a provisional license from entitling the applicant or licensee to a hearing or an appeal of the decision.

Stats. 2018, Chapter 827 (AB 2914), which becomes effective on January 1, 2019, adds Section 26070.2 to the Business and Professions Code and prohibits a licensee from selling, offering, or providing a cannabis product that is an alcoholic beverage, including, but not limited to, an infusion of cannabis or cannabinoids derived from industrial hemp into an alcoholic beverage.

Stats. 2018, Chapter 749 (AB 2020), which becomes effective on January 1, 2019, amends Section 26200 of the Business and Professions Code and authorizes a state temporary event license to be issued to a licensee for an event to be held at any other venue expressly approved by a local jurisdiction for events. The bill also amends Section 26200 of the Business and Professions Code to codify requirements that are similar to those provided in the Bureau's emergency regulations, including requiring that all participants who are engaged in the onsite retail sale of cannabis or cannabis products at the event to be licensed to engage in that activity, and requiring an applicant who submits an application for a state temporary event license to, 60 days before the event, provide the Bureau a list of all licensees that will be providing onsite sales of cannabis or cannabis products at the event and to update the list in a manner similar to what is provided in the existing emergency regulations. The bill also authorizes the Bureau to require the event and all participants to cease operations without delay if in the opinion of the Bureau or local law enforcement it is necessary to protect the immediate public health and safety of the people of the state. The bill also authorizes the Bureau to require the event organizer to immediately expel from the event any participant selling cannabis or cannabis products without a license from the Bureau that authorizes the participant to sell cannabis or cannabis products and authorizes the Bureau to require the event and all participants to cease operations immediately if the participant does not leave immediately. The bill also specifies that an order by the Bureau for the event to cease operations does not entitle the event organizer or any participant in the event to a hearing or an appeal of the decision and exempts an order by the Bureau for the event to cease operations from specified provisions related to the discipline of a license and from specified provisions related to the appeal of a decision by a licensing authority.

Stats. 2018, Chapter 971 (AB 2799), which becomes effective on January 1, 2019, amends Section 26051.5 of the Business and Professions Code and requires an applicant for initial licensure or renewal of a state license under the Act to provide a statement that the applicant employs, or will employ within one year of receiving a license or renewal, one supervisor and one employee who have successfully completed a Cal-OSHA 30-hour general industry course offered by a training provider that is authorized by an OSHA Training Institute Education Center.

Except as set forth above, there are no other changes in applicable laws or to the effect of the proposed regulations from the laws and effects described in the Notice of Proposed Action.

#### **UPDATE OF INITIAL STATEMENT OF REASONS AND INFORMATIVE DIGEST**

As authorized by Government Code section 11346.9, subdivision (d), the Bureau hereby incorporates the Initial Statement of Reasons prepared in this matter. Unless a specific basis is stated for any modification to the regulations as initially proposed, the necessity for the adoption of new regulations as set forth in the Initial Statement of Reasons continues to apply to the regulations as adopted.

All modifications from the initially proposed text of the regulations are summarized below.

## **MODIFICATIONS MADE AVAILABLE FOR A 15-DAY COMMENT PERIOD**

### **Chapter 1. All Bureau Licensees**

#### Changes Made to Article 1. Division Definitions:

##### § 5000. Definitions

The Bureau has made amendments to this section, including the addition of new definitions. As such, the numbering of the subsections has changed beginning with subsection (b).

The Bureau has added a definition for “branded merchandise.” Branded merchandise has been defined to mean clothing, hats, pencils, pens, keychains, mugs, water bottles, beverage glasses, notepads, lanyards, cannabis accessories, or other types of merchandise approved by the Bureau with the name or logo of a commercial cannabis business licensed pursuant to the Act. The definition further clarifies that branded merchandise does not include items containing cannabis or any items that are considered food as defined by Health and Safety Code section 10993.5. This addition was necessary because the Bureau has proposed to allow distributors to distribute and retailers to sell branded merchandise but had not clarified what constitutes branded merchandise. The Bureau limited branded merchandise to those items often used for marketing to allow licensees to avail themselves of this type of marketing, while not allowing licensees to sell other items that are not cannabis goods or accessories. It was necessary for the Bureau to identify branded merchandise because this broad range of customary branded items provides licensees with a great deal of flexibility, while also ensuring that the health and safety of the public is protected by ensuring that licensees are not using branded materials to appeal to underage persons

The Bureau has added a definition for “business day.” Business day has been defined as a day Monday through Friday from 8:00 a.m. to 5:00 p.m. Pacific Time, excluding state holidays in which the Bureau is closed for business. This was necessary because the Bureau has clarified throughout the regulations its requirements related to a period of days whether the period is business days or calendar days. This change assures that licensees are aware of the appropriate timing associated with the Bureau’s regulatory requirements.

The Bureau has amended the definition of “cannabis waste” to remove a reference to section 5055. This is necessary because the Bureau has amended the sections regarding waste and has removed section 5055 in whole. The Bureau has also removed the references to hazardous waste and organic waste. This change was necessary because the Bureau determined that the terms were not appropriate for all types of cannabis waste that may be generated by a licensee.

The Bureau has amended the definition of “delivery employee.” Since a microbusiness may only engage in cannabis activities it has been authorized to engage in by the Bureau, the Bureau has modified the definition to clarify delivery employee includes an individual employed by a licensed microbusiness authorized to engage in retail sales who delivers cannabis goods. This change is also necessary for consistency of terminology throughout the regulations.

The Bureau has added a definition for “immature cannabis plant” or “immature plant.” The Bureau has defined these terms to mean a plant that is nonflowering and is shorter and narrower than 18 inches. This addition is necessary because the Bureau allows retailers to sell immature cannabis plants but had not previously defined “immature cannabis plant.” The Bureau determined that retailers currently offer small clones and thus, requiring such plants to be under 18 inches was consistent with what retailers were currently offering. This definition is intended to apply only to licensees authorized to engage in retail and clarifies the requirements for a plant to be considered immature and therefore eligible for retail sale.

The Bureau has amended the definition of “limited-access area” to change contractors to authorized individuals. This change was necessary for consistency of terminology throughout the regulations, related to limited-access areas.

The Bureau has removed the definition of “nonvolatile solvent.” The Bureau determined that a definition for the term was unnecessary because the term is not used in the regulations.

The Bureau has added a definition for “promotional materials.” The Bureau has defined “promotional materials” to mean written material other than permitted signs, displays, decorations, cannabis accessories, and the cannabis goods themselves furnished by any licensee under the Act to a retail licensee for advertising purposes. This addition was necessary because the Bureau has proposed to allow distributors to distribute and retailers to provide to customers promotional materials but had not clarified what constitutes promotional materials; the term was ambiguous and required further definition. Limiting promotional materials was necessary to provide licensees with clear guidance regarding what types of materials may be distributed and provided to customers.

The Bureau has amended the definition of “publicly owned land” to also include land that is leased or occupied by a city, county, state, federal, or other government entity. The Bureau recognized that cities, counties, state, federal, or other governmental entities often lease office space or other properties. This change was necessary to clarify that all publicly held land is included in the definition.

The Bureau has added a definition for “tamper-evident.” The Bureau has defined “tamper evident” to mean that the cannabis goods packaging is sealed in a manner that prevents the packaging from being opened without obvious destruction of the seal. This change was necessary



because the Bureau has proposed to allow distributors to package pre-rolls in a tamper-evident package but had not clarified what constitutes tamper-evident packaging. To assure that commercial cannabis licensees that are packaging cannabis goods are held to the same standards, the Bureau's definition of "tamper-evident" is consistent with the definition promulgated by the California Department of Public Health (CDPH).

The Bureau has added a definition for "wholesale cost" which has the same meaning as the definition adopted by the California Department of Tax and Fee Administration (CDTFA) regarding cannabis taxes. This addition was necessary to ensure consistent use of the term by CDTFA and the Bureau.

#### Changes Made to Article 2. Applications:

##### § 5001. Temporary Licenses

The Bureau has amended the title of this section from "Temporary License Application Requirements" to "Temporary Licenses" and removed subsections (a) through (d) related to application requirements. The Bureau's authority to issue temporary licenses ceases on January 1, 2019. As the Bureau will no longer be accepting temporary license applications after the proposed regulations become effective, these sections are no longer necessary. The rest of the subsections have been renumbered to reflect the deletion of the subsections.

The reference section has been revised to correct a typographical error.

##### § 5002. Annual License Application Requirements

Subsection (c)(15) has been amended to clarify that all business formation documents must be provided to the Bureau to ensure the Bureau can properly evaluate the application. Additionally, the subsection has been amended to include bylaws in the list of business-formation documents that must be provided. This modification was necessary to clarify that the Bureau considers bylaws to be a part of the business-formation documents that must be disclosed with the application. The subsection was also amended to clarify that for a commercial cannabis business held in trust, the applicant shall provide the certificate of trust establishing trustee authority. The subsection previously stated the applicant shall provide a copy of the trust. The amendment clarifies the specific document that must be provided. Collectively, the information collected under this subsection is necessary because it enables the Bureau to determine how the commercial cannabis business will be organized and to ensure that all owners as defined in section 5003 and all financial interest holders in section 5004 are identified.

Subsection (c)(17) has been amended to include foreign limited liability company to account for this type of business structure. The subsection has also been amended to include a certificate of registration or certificate of status in addition to a certificate of qualification. The Bureau

determined that not all foreign business entities would have a certificate of qualification, and thus an amendment to the section was necessary to include the other certificates that a foreign corporation is issued by the Secretary of State. This subsection also made a grammatical change which amended “Secretary of State of California” to “California Secretary of State,” and replaced “the” with “a.”

Subsections (c)(19) and (c)(20) have been amended to reflect the appropriate cross reference to section 5003. This change was necessary to assure that the reader may accurately cross reference the appropriate language.

Subsection (c)(27) amends the term “provisional” to “interim” license for testing laboratories. This change is necessary to avoid terminology confusion due to a recent change in legislation that created a provisional license category for all commercial cannabis licensees.

Subsection (c)(29) was amended to correct a typographical error in the word “license”. The subsection also incorporates by reference several forms to which changes have been made, including updating the “7/18” date to “10/18” for all of the forms to reflect the date the forms were amended. The Transportation Procedures Form, BCC-LIC-015 (New 10/18) was amended to correct for typographical and grammatical errors. Specifically, section 2(d) was amended to correct the spelling of “responsibilities,” and section 2(g) was amended to correct for the removal of a comma after “parcel of land.”

The Non-Laboratory Quality Control Procedures Form, BCC-LIC-017 (New 10/18) was amended to correct for typographical and grammatical errors. Specifically, section 1(a) was amended to correct the spelling of “transferring,” and section 1(b) was amended to correct the spelling of “verifying”, and to make a grammatical correction of adding “and” between primary panel labeling and informational panel labeling, to indicate that these are both inclusive in the materials to be verified. Section 1(d) was also amended to make consistent the heading format, and (1)(d)(i) was amended to correct the spelling of “including.”

The Security Procedures Form, BCC-LIC-018 (New 10/18) was amended to correct for typographical and grammatical errors. Specifically, section 3(b) was amended to correct a typographical error that omitted language that was intended to be included. Language was added to complete the sentence in its entirety so as to clarify to applicants that the description to be provided under this subsection is pertaining to how the applicant will ensure that only authorized persons have access to the licensed premises and its limited access areas. Section 5(f) was amended to correct a typographical error that omitted language that was intended to be included. Language was added to complete the sentence in its entirety so as to clarify to applicants that the description to be provided under this subsection is pertaining to how the applicant will produce copies of video recordings at the licensed premises immediately upon request by the Bureau. Section 7(e) was amended to correct a typographical error that omitted language that was

intended to be included. Language was added to complete the sentence in its entirety so as to clarify to applicants that the description to be provided under this subsection is pertaining to how the applicant will be sharing the alarm system with other licenses (when sharing services at the same location), if applicable.

The Cannabis Waste Management Procedures Form, BCC-LIC-019 (New 7/18) has been removed to no longer require cannabis waste management procedures be submitted to the Bureau. Due to changes made to the sections on cannabis waste, this section is no longer necessary.

The Delivery Procedures Form, BCC-LIC-020 (New 10/18) was amended to correct for typographical and grammatical errors. Specifically, section 1 was amended to correct for the removal of a comma after “Provide” starting in the second sentence. This section was also renumbered to subsection (c)(29)(E) based on the removal of a subsection.

Subsection (c)(33) has been amended to add additional references to sections related to the California Environmental Quality Act for clarity. The section has also been amended to correct a grammatical error.

Subsection (c)(34) has been added to require applicants to provide their State Employer Identification Number (SEIN) issued by the California Employment Development Department. This number is necessary to ensure that all applicants that are required to obtain such a number have obtained it and are thus, in compliance with California law.

Subsection (c)(35) has been added to require applicants with more than one employee, to attest that they currently employ, or will employ within one year of receiving a license, at least one supervisor and one employee who have successfully completed a Cal-OSHA 30-hour general industry outreach course offered by a training provider that is authorized by an OSHA Training Institute Education Center. This addition is necessary to align with Assembly Bill 2799, amending Business and Professions Code section 26051.5 to include such a requirement. This will also provide the Bureau an application with the necessary attestations to ensure that the applicant meets the requirements for licensure.

#### § 5003. Designation of Owner

Subsection (a) has been amended to clarify that reference to section 5002 is a reference to section 5002 of this division. This change was necessary for clarity and consistency throughout the regulations.

Subsection (b) has been amended to add an additional provision. Former subsection (b)(5) is now subsection (b)(6). All owners are required to be disclosed on the application and must submit fingerprint images to the Department of Justice. (Bus. & Prof. Code, § 26051.5.) Accordingly,

new subsection (b)(5) includes as an owner an individual who is entitled to a share of 20 percent of the profits of the commercial cannabis business. Inclusion of this provision is necessary because commercial cannabis businesses are seeking alternative methods to acquire capital to cover business costs due to traditional business loans being unavailable. Because of these nontraditional methods, some commercial cannabis businesses have owners that are entitled to profits but may not consider themselves as falling under the aggregate ownership interest of 20 percent because they did not personally provide that much capital to the startup costs. This provision makes clear that an aggregate ownership of 20 percent could be someone who is entitled to at least 20 percent of the profits regardless of how much of an investment they made into the company. This provision also assures that all individuals who meet the definition of “owner” are disclosed as part of an application for licensure.

New subsection (b)(6) contains those persons who fall under the statutory provision that an owner is an individual who will be participating in the direction, control, or management of the person applying for a license. Following the 45-day comment period, the Bureau proposed to add additional provisions to part (D). The Bureau proposed to expand this subsection by adding parts (D)(i)-(D)(iv) to provide examples of which individuals fall under the owner category of an “individual who assumes responsibility for a license.” However, after reviewing comments regarding the section and receiving feedback from stakeholders, the Bureau determined that subsection (b)(6)(D) had created more confusion than clarity. Thus, the Bureau has withdrawn subsection (b)(6)(D).

Subsection (c) has been amended to clarify that when an entity has a 20 percent ownership interest in the commercial cannabis business, then all individuals who are owners of that entity shall be considered owners of the commercial cannabis business. This subsection has also been amended to provide examples such as all entities in a multi-level ownership structure are included as owners as well as persons that have control of a trust, chief executive officers, members of a board of directors, partners, trustees, and managing or non-member managers of the entity. Further clarification is provided by indicating the disclosures must trace back to the actual person holding an interest until only individuals remain. The Bureau has received numerous questions regarding this issue, with many applicants not understanding that the intent of this section was to reach the individual owners of an entity that owns a portion of the commercial cannabis business. Because all owners are required to be disclosed on an application for licensure, this modification is necessary to provide clarity to applicants on which individuals will be considered an owner of a commercial cannabis business when an entity owns a portion of the commercial cannabis business. To determine if a person has an aggregate interest of more than 20%, disclosure of actual individuals with ownership in entities is necessary. This provision assures that all individuals who meet the definition of “owner” are disclosed as part of an application for licensure.

#### § 5004. Financial Interest in a Commercial Cannabis Business

Subsection (a) has been amended to remove the last sentence. This was necessary because the rule was repeated in subsection (d)(2). This subsection has also been amended to expand on what “an agreement to receive a portion of the profits” includes. The Bureau received comments and questions regarding this and determined it was necessary to expand on the provision by providing specific examples of agreements to receive a portion of the profits. The subsection now includes the following: an employee who has entered into a profit share plan with the commercial cannabis business; a landlord who has entered into a lease agreement with the commercial cannabis business for a share of the profits; a consultant who is providing services to the commercial cannabis business for a share of the profits; a person acting as an agent, such as an accountant or attorney for the commercial cannabis business for a share of the profits; a broker who is engaging in activities for the commercial cannabis business for a share of the profits, and a salesperson who earns a commission. With the expanded section, applicants will have clear guidance on which individuals need to be disclosed as financial interest holders.

A new subsection (c) has been added. The new subsection clarifies that if an entity has a financial interest in a commercial cannabis business, then all individuals who are owners of that entity shall be considered to have a financial interest in the commercial cannabis business. This subsection has also been amended to provide examples such as all entities in a multi-level ownership structure are included as having a financial interest as well as persons that have a profit-sharing plan, have a lease agreement for a share of the profits, are a consultant providing services for a share of the profits, are acting as an agent and receiving a share of the profits, are a broker receiving a share of the profits, and are a salesperson earning commission. Further clarification is provided by indicating the disclosures must trace back to the actual person holding an interest until only individuals remain. The Bureau has received numerous questions regarding this issue with many applicants not understanding that the intent of this section was to reach the individual owners of an entity that has a financial interest in the commercial cannabis business. Accordingly, this change was necessary to clarify which individuals need to be identified on the application as financial interest holders when an entity is a financial interest holder.

Former subsection (c) has been renumbered to subsection (d).

#### § 5006. Premises Diagram

Subsection (c) has been amended to include the activity of infusion in the examples of commercial cannabis activities that must be included on the premises diagram. This change was necessary to provide additional examples of commercial cannabis activities that Bureau licensees may be engaged in on their premises. This addition will aid both applicants and Bureau staff in clearly identifying, with sufficient particularity, the characteristics of the premises.

Subsection (d) has been amended to provide a cross-reference to section 5315 which exempts from video surveillance requirements distributor transport only licensees who are operating on the same parcel of land as their manufacturing or cultivation licensed premises. This change was necessary to provide clarity to applicants so that they would know exactly what is required on the premises diagram for their license type. It also assures that readers may accurately reference the section regarding distributor transport only licensees.

Subsection (i) has been amended to remove the reference to subsections (b) through (g). The Bureau determined that this reference was not accurate and thus, it was necessary to make an amendment.

The reference section has been revised to correct a typographical error.

#### § 5007.2 Use of Legal Business Name

This new section would require applicants and licensees to use their legal business name on all documents related to commercial cannabis activity. This section is necessary because the Bureau has found that applicants and licensees are using “doing business as” (DBA) names on some documents and their legal business names on others. This creates confusion for the licensing authorities and the licensees. Therefore, the Bureau determined it was necessary to require that licensees use their legal business name on all documents related to commercial cannabis activity.

#### § 5008. Bond

This section has been amended to clarify that a bond is required for each license. The Bureau has received a number of questions regarding this requirement. This amendment was necessary to provide clarity to applicants regarding the requirement to have a bond for each license they apply for, as required by the Act.

#### § 5010. Compliance with the California Environmental Quality Act (CEQA)

Subsection (c) of this section has been amended to require use of the CEQA Project-Specific Information Form, BCC-LIC-025 (New 10/18) which has been incorporated by reference. Prior to issuing a license, the Bureau must ensure the appropriate level of environmental review under CEQA has been completed. The inclusion of a form was necessary to guide applicants and ensure they provide sufficient information for the Bureau to determine whether the issuance of a license has the potential to generate significant adverse environmental impacts that might trigger further CEQA review. Specifically, the form will ensure that applicants adequately describe the location of their license; describe surrounding land uses and zoning designations; provide a vicinity map to show the license location; provide photographs of the existing visual conditions; describe the requested license activities and whether any physical modifications will be required;

describe related public agency permits and approvals; describe potential impacts to public services and utilities; and describe potential environmental impacts related to licensure.

Revised subsection (c) to correct several grammatical errors.

#### § 5010.2 CEQA Exempt Projects

Section 5010.2 allows applicants to submit documentation to the Bureau demonstrating that a project is exempt from further environmental review pursuant to CEQA because the project falls within a class of projects under the CEQA Guidelines that have been determined not to have a significant effect on the environment. Subsection (a) has been amended to require use of the CEQA Exemption Petition Form, BCC-LIC-026 (New 10/18) which has been incorporated by reference. The inclusion of a form was necessary to guide applicants and ensure they provide adequate information to facilitate the Bureau's determination of whether a license may be exempt from further CEQA review. Specifically, the form ensures that applicants provide general information about the project location and an explanation as to how the applicant's licensed premises may fit into one of the categorical exemptions identified in the CEQA guidelines.

Subsection (c) has been amended to change 5 working days to 5 business days. This was necessary to provide consistency with the rest of the regulations that use the term business days rather than working days.

#### Changes Made to Article 3. Licensing:

##### § 5014. Fees

The fees outlined in this section were revised based on updated recommendations from the economists at the University of California Resources Center (AIC). Such revisions were necessary due to newly available information regarding the type and number of prospective/active licenses, as well as feedback about how fees were calculated. The Bureau determined it was necessary to adjust the scaling and tiering of the fees to reflect the sizes and types of the business entities seeking licensure. The fees are now based on estimated revenue, specifically gross revenue for the 12-month license period, a calculation more easily performed by applicants and licensees that may be easily verified by the Bureau. This change is also reflected in the annual license fee table. Additionally, the fee table has been changed to remove "Distributor Transport Only" as a separate fee category from "Distributor." This change will allow all distributors, not simply transporting their own product, to be subject to the same fee schedule based on their revenue.

The license type classifications have been added to the annual fee schedule as well, under license type, to clarify and specify which license classifications correspond to each license type and fee. This is necessary to guide and streamline the process for applicants and licensees.

#### § 5016. Priority Licensing

The reference section has been revised to correct a typographical error.

#### § 5019. Excessive Concentration

Subsection (a) of this section has been amended to clarify that excessive concentration is evaluated in determining whether to grant, deny, or renew a license for a retail premises or microbusiness premises authorized to engage in retail sales. This change was necessary to provide clarity that the excessive concentration is based on the premises location, rather than license.

The reference section has been revised to correct a typographical error.

#### § 5020. Renewal of License

Subsection (a) has been revised to request documentation consistent with the change in how a license fee is determined in section 5014. The reference to maximum dollar value of the licensee's operation has been replaced with a reference licensee's gross revenue.

The section was also revised to add an additional item, subsection (d)(5), for licensees to consider on the license renewal form. Subsequent subsections have been renumbered accordingly. In addition to the information previously enumerated, licensees for renewal would also need to submit documentation of any change to any item listed in the original application under section 5002 of the division that has not been reported to the Bureau through another process pursuant to the Act or this division. This is necessary to ensure that the Bureau is apprised of any changes to information initially listed on the application so that the Bureau may determine whether certain changes affect licensure status.

Subsection (d)(6) was revised to clarify that the attestation that all information provided to the Bureau is accurate and current is found on the license renewal form. This is necessary to ensure that licensees are aware of how to provide the required attestation. Including the attestation on the renewal form streamlines the license renewal process by assuring that licensees are able to fulfill this requirement without having to complete additional paperwork.

Subsection (d)(8) has been added to require multiple-employee licensees applying for a license renewal, to attest that they currently employ, or will employ within one year of license renewal, at least one supervisor and one employee who have successfully completed a Cal-OSHA 30-hour general industry outreach course offered by a training provider that is authorized by an OSHA



Training Institute Education Center. This addition is necessary to align with Assembly Bill 2799, amending Business and Professions Code section 26051.5 to include such a requirement. This will also provide the Bureau the necessary attestations to ensure that the licensee is fit for continued licensure.

The reference section has been revised to correct a typographical error.

#### § 5021. Denial of License

The reference section has been revised to correct a typographical error.

#### § 5022. Cancellation of License

This section revises the time period that the Bureau may cancel a license, from 10 business days to 14 calendar days. This is necessary to assure that notification timelines within the Bureau's proposed regulations are consistent. The Bureau determined that 14 calendar days not only ensures that the Bureau is apprised of changes to a license as soon as possible but provides a reasonable time period for licensees to reach out to the Bureau regarding their closure, quitting, or abandoning the licensed premises. Additionally, the Bureau has incorporated by reference a form to provide guidance on how to provide the required notification to the Bureau in subsection (a). The inclusion of a form was necessary to guide licensees and ensure they provide sufficient information to the Bureau for consideration. The form also streamlines the notification process by assuring that licensees are able to fulfill its notification requirements without having to complete additional paperwork.

The reference section has been revised to correct a typographical error.

#### § 5023. Business Modifications

This section includes some grammatical edits to clarify to Bureau stakeholders that business modifications to items contained in an application for licensure may only be made in certain circumstances. This is necessary to ensure that licensees are aware of the circumstances for which notifications to the Bureau or new applications for licensure are required.

In addition, subsection (a) of this section has been revised to clarify that changes to standard operating procedures may be made without providing notification to the Bureau, except at renewal. This is necessary to ensure that the Bureau is apprised of changes to the standard operating procedures at the time of license renewal. The purpose of collecting this information at the time of license renewal is to ensure that the Bureau may make an informed determination as to whether the licensee's planned operations will comply with the various licensure requirements before a license is renewed.

Subsection (c) has been amended to clarify that licensees are not assignable to another person or owner. This was necessary to avoid confusion that nontransferable also includes assignment.

Subsection (c)(1) has been amended to clarify that in addition to not being transferable, licenses are not assignable. This is necessary to ensure that licensees are aware that they cannot allow another person to operate under their license as the statute requires qualification of individuals with specific roles in the business. This section also revises the time period during which an applicant must provide a new application and fee for licensure when one or more owners of a license changes from 10 business days to 14 calendar days. This is necessary to assure that all notification timelines within the Bureau's proposed regulations are consistent. The Bureau determined that 14 calendar days not only ensures that the Bureau is apprised of changes to a license as soon as possible but provides a reasonable time period for licensees to reach out to the Bureau when one or more owners of a license changes. The Bureau also added language to clarify that the business can continue to operate while the Bureau reviews the new ownership information and makes a determination if one owner remains the same. This is necessary to avoid confusion about whether the business can operate while the new application is pending. The Bureau has also clarified that when a new application is required, the new ownership cannot operate the business until the application has been submitted and approved by the Bureau and all fees have been paid. This is necessary to make clear that the application process must be completed and to avoid potential confusion. The Bureau also made grammatical corrections. The proposed changes to the subsection ensures that the Bureau can effectively determine whether new owners satisfy the requirements for licensure and whether certain changes in the licensee's ownership will affect licensure status.

Subsection (d) has been revised to clarify that when there are changes in persons with a financial interest in the commercial cannabis business that do not meet the requirements for a new application, the licensee must submit certain information to the Bureau within 14 calendar days, rather than 10 business days of the change. This is necessary to assure that notification timelines within the Bureau's proposed regulations are consistent. The Bureau determined that 14 calendar days not only ensures that the Bureau is apprised of changes to a license as soon as possible but provides a reasonable time period for licensees to reach out to the Bureau regarding changes to a licensee's operations. It also ensures that the Bureau can timely evaluate whether certain changes to the license will affect licensure status.

Subsection (e) of this section has been added to clarify that licensees must notify the Bureau of certain changes within 14 calendar days, rather than 10 business days as originally proposed; subsequent subsections have been renumbered. This is necessary to assure that notification timelines within the Bureau's proposed regulations are consistent. The Bureau determined that 14 calendar days not only ensures that the Bureau is apprised of changes to a license as soon as possible but provides a reasonable time period for licensees to reach out to the Bureau regarding

changes to a licensee's operations. It also ensures that the Bureau can timely evaluate whether certain changes to the license will affect licensure status.

Subsection (i) has been added to this section to require use of a form, Notification and Request Form, BCC-LIC-027 (New 10/18), incorporated by reference for all notifications to the Bureau required under this section, unless the change can be made through the Bureau's online system. The inclusion of a form was necessary to guide licensees and ensure they provide sufficient information for the Bureau to consider. The form also streamlines the notification process by assuring that licensees are able to fulfill its notification requirements without having to complete additional paperwork.

The remaining subsections are renumbered accordingly for consistency.

#### § 5024. Death, Incapacity, or Insolvency of a Licensee

This section revises the timeframe a licensee, or the licensee's successor in interest, must notify the Bureau about the death, incapacity, or insolvency of the owner of a license from 10 business days to 14 calendar days. This is necessary to assure that all notification timelines within the Bureau's regulations are consistent. The Bureau determined that 14 calendar days not only ensures that the Bureau is apprised of changes to a license as soon as possible but provides a reasonable time period for licensees to reach out to the Bureau regarding the death, incapacity, or insolvency of the owner of a license. The Bureau has also incorporated by reference a form to be used for this notification, Notification and Request Form, BCC-LIC-027 (New 10/18). The inclusion of a form was necessary to guide the licensee, or the licensee's successor in interest, to ensure they provide sufficient information for the Bureau to consider. The form also streamlines the notification process by assuring that a licensee, or the licensee's successor in interest, is able to fulfill their notification requirements without having to complete additional paperwork.

#### § 5024.1. Cannabis Goods After Termination of a License

This section has been added to provide licensees clarification on what they are allowed to do with cannabis goods on the licensed premises in the event a license is terminated for any reason. The Act provides that commercial cannabis activities can only be conducted by licensees; this is necessary to ensure that licensees are aware that their ability to conduct business under a license ceases once it has been terminated. This section is necessary because it enables the Bureau to minimize the potential for illegal diversion of cannabis goods once a license has been terminated.

Subsection (a) has been added to clarify that in the event a license has been terminated, the cannabis goods in the possession of the former licensee may be destroyed. This is necessary to ensure that illegal diversion of cannabis goods is minimized once a license has been terminated.

Subsection (b) has been added to clarify that in the event a license has been terminated, a licensed distributor or licensed microbusiness authorized to engage in distribution may be authorized by the Bureau to purchase and distribute the former licensee's entire inventory stock in certain circumstances. This is necessary to clarify the limited circumstances in which cannabis goods may be transferred to another licensee once a license has been terminated. This also ensures that illegal diversion of cannabis goods to unlicensed entities is minimized once a license has been terminated.

Subsection (b)(1) has been added to clarify that a licensed distributor or licensed microbusiness authorized to engage in distribution shall, within 14 calendar days of the termination of the former licensee's license, submit a written request to the Bureau for authorization to purchase the cannabis goods from the former licensee. This section is necessary to assure that cannabis goods once held by a valid licensee may be transferred to another Bureau licensee. The Bureau determined that 14 calendar days not only ensures that the Bureau is apprised of potential product transfers as soon as possible but provides a reasonable time period for licensees to reach out to the Bureau to request to transfer product held by a former licensee. Such requests must be submitted on the new Notification and Request Form, BCC-LIC-027- (New 10/18), which is incorporated by reference. This form is necessary to assure administrative ease for both licensees and Bureau staff by requiring that all requests submitted to the Bureau be done in a uniform manner.

Subsection (b)(2) has been added to clarify that the licensed distributor or licensed microbusiness authorized to engage in distribution shall transport the cannabis goods to their premises, arrange for laboratory testing, and perform quality assurance in accordance with Chapter 2 of the Bureau's proposed regulations. This section further recognizes that if cannabis goods have already been tested and have a valid certificate of analysis under 12 months old, they are not required to undergo additional testing if they are transferred to another distributor. This subsection is necessary to clarify that licensed distributors and licensed microbusinesses that are authorized to engage in distribution are still bound to the distribution requirements found in Chapter 2 of the proposed regulations. This assures that all cannabis goods that enter the retail market meet the quality assurance and testing requirements outlined in the Act and its implementing regulations. These changes are also necessary to clarify that only microbusinesses that are authorized to engage in distribution may transport cannabis goods in accordance with this section.

#### § 5025. Premises

Subsection (c) has been amended to clarify that licensed retailers and licensed microbusinesses authorized to engage in retail sales shall only serve customers who are within the licensed premises. This change is necessary because it clarifies that only certain microbusinesses that

engage in retail activity must comply with this premises provision. This change is also necessary for consistency of terminology throughout the regulations.

Subsection (f) of this section has been clarified to state that the section shall not be interpreted to prohibit cannabis consumption on the premises of a “licensed” retailer or “licensed” microbusiness that is conducted in accordance with Business and Professions Code section 26200(g). This is necessary because it assures terminology consistency throughout the Bureau’s proposed regulations. It also clarifies that in order to avail themselves of such activities allowed under Business and Professions Code section 26200(g), such businesses need to hold an active state license.

#### § 5026. Premises Location

Subsection (c) has been amended and divided into two separate subsections, with the new subsection (d) containing the provision that the licensed premises shall not be in a location that requires persons to pass through the licensed premises in order to access a business that sells alcohol or tobacco or in a private residence. The remaining subsections are renumbered for consistency. The risk of the licensee losing control over the premises is minimized with the location restrictions identified in these subsections. These changes are necessary to clarify the restrictions on premises locations and make distinct these separate requirements.

Subsection (g) has been added to this section to clarify that nothing in this section shall be interpreted to prohibit two or more licensed premises from occupying separate portions of the same parcel of land or sharing common use areas, such as a bathroom, breakroom, hallway, or building entrance. The Bureau recognizes that some licensed operations may be located on properties with separate buildings or suites, which provide clear separation between licensed premises; many times, such buildings have shared bathrooms or hallways where no licensed activities would take place. This section is necessary to ensure that prospective licensees are aware of location considerations for licensed premises.

Subsection (h) has been added to this section to clarify that all structures included as part of a licensed premises shall be permanently affixed to the land by a method that would cause the structure to ordinarily remain affixed for an indefinite period of time. This section also clarifies what structures are not considered permanent structures, such as shipping containers that are not affixed to the land, structures that rest on wheels, or any structure that can be readily moved. The Act recognizes that it is integral for the Bureau to assure that a licensee’s premises remains consistent with the premises diagram approved by the Bureau as part of its application process. The Bureau’s review of the premises diagram assures that applicants are adhering to the requirements of the Act and its implementing regulations. As the Bureau is required to determine if the location of the premises is appropriate, it is important that a premises cannot be easily relocated or modified. This review also assures that, in a worst-case scenario, a premises cannot

be easily stolen while containing cannabis goods which could be diverted to the unregulated market. Finally, requiring premises to be permanently affixed assures that if Bureau staff conduct a site visit of the applicant's premises, the premises is where it was identified on the originally-submitted premises diagram and that it is safe to enter.

#### § 5027. Physical Modification of Premises

Subsection (c) of this section has been amended to incorporate by reference new Notification and Request Form, BCC-LIC-027- (New 10/18), to be used by licensees to request permission from the Bureau to modify the premises. This form is necessary to provide clear guidance to licensees on what information must be provided to the Bureau to request a premises modification. The form also streamlines the notification process by assuring that licensees are able to fulfill its notification requirements without having to complete additional paperwork.

#### § 5032. Commercial Cannabis Activity

The title of this section has been changed from “Designated M and A Commercial Cannabis Activity” to “Commercial Cannabis Activity” as it has been amended to encompass more than just A-designated and M-designated license activity.

Subsection (a) has been amended to clarify that licensed retailers or licensed microbusinesses authorized to engage in retail sales may conduct commercial cannabis activity in accordance with Chapter 3. This clarification is necessary for consistency of terminology throughout the regulations. This clarification also recognizes that only certain microbusinesses may engage in retail activities. Also, “chapter” was amended to “Chapter” for consistency throughout the regulations.

Subsection (b) was added to the regulations to clarify that commercial cannabis activity can only be engaged in by licensees as required by the Act. It specifies that a licensee shall not conduct commercial cannabis activities on behalf of, at the request of, or pursuant to a contract with an unlicensed person. This change was necessary because the Bureau has received information and has observed that some licensees may be engaging in commercial cannabis activity with non-licensees. In addition, the Bureau has learned that some licensees may be conducting commercial cannabis business at the direction of non-licensees who may be considered to have an ownership or financial interest in the commercial business and should thus be reported in accordance with sections 5003 and 5004 of the regulations. Initially, the Bureau determined that it was necessary to assist licensees with determining what types of activities may or may not be allowed under the Act and its implementing regulations. The initial proposed change identified certain transactions that would generally be considered commercial cannabis activities under the Act. However, the Bureau has determined that inclusion of the clarifying example transactions is causing more

confusion. Accordingly, the Bureau has decided not to move forward with the proposed changes which identify examples of specific commercial cannabis transactions.

Subsection (c) has been renumbered from subsection (b).

Subsections (d) and (e) of this section has been amended to clarify that licensed distributors or licensed microbusinesses authorized to engage in distribution shall only transport and sell cannabis goods designated as “For Medical Use Only,” pursuant to the requirements prescribed by CDPH in regulation, to M-designated retailers or M-designated microbusinesses authorized to engage in retail. This clarification is necessary for consistency of terminology throughout the regulations. This clarification also recognizes that only certain microbusinesses may engage in distribution and/or retail activities. These subsections were also renumbered based on other amendments to the section.

#### § 5034. Significant Discrepancy in Inventory

An introductory sentence has been added to this section to clarify that a determination by a licensee on whether a discrepancy in inventory is significant shall be made in consideration of certain factors. This new introduction to the section is necessary to ensure that licensees are aware that all of the subsequent subsections are relevant to the determination of a significant discrepancy.

Subsection (a) of this section has been revised to state that a significant discrepancy in inventory occurs when there is a difference in actual inventory compared to records pertaining to inventory of 3 percent of the average monthly sales of the licensee. The Bureau received several comments expressing concern about how significant discrepancy is determined. Specifically, individuals expressed concern about over-reporting for larger businesses. The adjustment of the threshold was necessary based on information available about the costs of cannabis goods and the typical losses licensees may have in the course of business.

#### § 5035. Notification of Criminal Acts, Civil Judgements, Violations of Labor Standards, and Revocation of a Local License, Permit, or Other Authorization After Licensure

Subsection (e) has been added to this section to incorporate by reference the new Notification and Request Form, BCC-LIC-027- (New 10/18), to be used by licensees to provide the required notifications under this section. This is necessary for licensees to have clear guidance on how to provide to the Bureau the notifications required under this section. The form also streamlines the notification process by assuring that licensees are able to fulfill their notification requirements without having to complete additional paperwork.

#### § 5036. Notification of Theft, Loss, and Criminal Activity

Subsection (b) has been revised to incorporate by reference the new Notification and Request Form, BCC-LIC-027- (New 10/18), to be used by licensees to provide the required notifications under this section. This is necessary for licensees to have clear guidance on how to provide to the Bureau the notifications required under this section. The form also streamlines the notification process by assuring that licensees are able to fulfill their notification requirements without having to complete additional paperwork.

#### § 5038. Disaster Relief

Subsection (h)(4) of this section has been revised to clarify that a licensee must submit a request for temporary relief within 14 calendar days, rather than 10 business days as originally proposed. This is necessary to assure that notification timelines within the Bureau's proposed regulations are consistent. The Bureau determined that 14 calendar days not only ensures that the Bureau is apprised of changes to a license as soon as possible but provides a reasonable time period for licensees to reach out to the Bureau for temporary relief. Such requests must be submitted on the new Notification and Request Form, BCC-LIC-027- (New 10/18), which is incorporated by reference. This form is necessary to assure administrative ease for both licensees and Bureau staff, with all requests submitted to the Bureau done in a uniform manner. The form has also been incorporated by reference into subsection (h)(2) which requires notification to the Bureau when cannabis goods have been moved and the licensee is requesting relief from complying with specific licensing requirements.

#### Changes Made to Article 4. Posting and Advertising

##### § 5040. Advertising Placement

Subsection (a)(2) of this section has been revised to provide that licensees shall not use any depictions or images of minors or anyone under 21 years of age. Subsection (a)(3) has been revised to provide that licensees shall not use certain advertising mechanisms that are likely to be appealing to minors or anyone under 21 years of age. This is necessary to assure consistency with Business and Professions Code section 26151(b), which requires licensees to demonstrate that any advertising or marketing shall only be displayed where at least 71.6 percent of the audience is reasonably expected to be 21 years of age or older. To remain consistent with the Act, the Bureau will change all references in this section of 18 years of age, to 21 years of age.

In addition, subsection (a)(4) has been clarified to state that licensees shall not advertise giveaways of any type of products, including non-cannabis products. This is necessary because a number of commenters sought clarity regarding the use of non-cannabis products in promotional giveaways. Advertisement of free cannabis goods is prohibited by Business and Professions Code section 26153, which does not allow for free cannabis goods as a part of business promotion. The Bureau has determined that such restrictions should be extended to non-



cannabis goods because Business and Professions Code section 26152 (e) prohibits licensees from advertising or marketing cannabis or cannabis products in a manner that is intended to encourage persons under 21 years of age to consume cannabis or cannabis products. The dissemination of promotional giveaways may appeal to underage persons.

Subsection (a)(4)(A) is also amended to clarify that “buy one product get one free” means “buy one product get one product free.” This is necessary to clarify the meaning of this provision.

Subsection (b)(3) has been added to clarify that outdoor signs, including billboards, shall not be located within a 15-mile radius of the California border or an Interstate Highway or on a State Highway which crosses the California border. The Act prohibits certain advertisements along Interstate Highways and State Highways that cross the California border but does not clarify to what extent such prohibitions take place. This change is necessary to clarify the prohibitions found in section 26152(d) of the Business and Professions Code, by allowing the placement of outdoor signs or billboards along Interstate Highways or State Highways, provided that they are located further than 15-miles from the California border. The Bureau determined that a 15-mile radius was a necessary and appropriate distance from the California border because it satisfies that the intent of section 26152(d) of the Business and Professions Code, while assuring that Bureau licensees, including those located in jurisdictions along the California border, still have an opportunity to advertise and market their commercial cannabis operations along Interstate Highways and State Highways if they satisfy the identified radius limitations.

Subsection (b) has also been amended to separate the other requirements on outdoor advertising into subsections (b)(1) and (2) for clarity.

#### § 5040.1. Marketing Cannabis Goods as Alcoholic Products

This section has been added to clarify that licensees shall not sell or transport cannabis goods that are labeled as beer, wine, liquor, spirits, or any other term that may create a misleading impression that the product is an alcoholic beverage. This addition is necessary because recently passed legislation prohibits licensees from selling, offering, or providing a cannabis product that is an alcoholic beverage and this provision will prevent consumer confusion that may be caused by use of these terms. The Bureau has determined that this prohibition should be extended to beverages labeled as “beer, wine, liquor, spirits, or any other term that may create a misleading impression that the product is an alcoholic beverage.” The Bureau is charged with ensuring public health and safety and this provision will help prevent customer confusion that may be caused by the use of these terms.

#### § 5041.1. Branded Merchandise Approval

This section has been added to provide licensees with a process to seek approval of branded merchandise. Subsection (a) indicates that if a licensee wants to sell branded merchandise that is

not specifically listed in section 5000, the licensee must obtain approval from the Bureau in writing. The Bureau has limited branded merchandise to those items that are commonly used for marketing to allow licensees to avail themselves of this type of marketing. However, the Bureau has determined that in order to ensure the health and safety of the public, and in particular the health and safety of minors is preserved, branded items must be limited in scope. Accordingly, the Bureau has provided a process in this section so that other items can be approved by the Bureau when appropriate. Further, as cannabis is still an illegal substance under federal law, the Bureau determined that restricting the items that can be used as branded merchandise is necessary.

Subsection (b) provides that to obtain approval, the licensee must submit a written request to the Bureau for approval to sell a specific item of branded merchandise and provide a photograph of the branded merchandise. It also informs licensees that requests may be emailed to the Bureau at [bcc@dca.ca.gov](mailto:bcc@dca.ca.gov) or by mail to the Bureau office. This is necessary because it provides licensees clarity on how to seek approval from the Bureau and the information that the Bureau needs to evaluate the request.

Subsection (c) informs the licensee that the merchandise must not be sold prior to receiving written approval from the Bureau for the specific item of branded merchandise. This is necessary to clarify for licensees that each item of branded merchandise requires a separate approval from the Bureau before it is sold.

#### Changes Made to Article 5. Security Measures:

##### § 5042. Limited-Access Areas

Subsection (b) has been amended to remove “individuals employed by the licensee as well as any” as the Bureau has determined that this edit is necessary for this section to be consistent with section 5000 subsection (m).

The reference section of this regulation has been amended to include a reference to Business and Professions Code section 26160. The Bureau determined this reference should also be included with this section.

##### § 5044. Video Surveillance System

This section has been amended to remove the requirement that surveillance system storage devices or the cameras be transmission control protocol capable of being accessed through the internet. The Bureau determined that this requirement was not necessary to ensure the health and safety of the public as recordings are required to be saved for 90 days, which provides the Bureau and the licensee with sufficient time to review the surveillance footage in case a crime or

unauthorized act occurs on the premises that necessitates an investigation. With the removal of this requirement, the numbering of subsections (b)-(m) have been changed.

Subsection (e) which was formerly subsection (f) has been amended to clarify licensed microbusinesses authorized to engage in retail sales are required to record point-of-sale areas. This change was necessary because the requirement to record point-of-sale areas does not apply to all microbusinesses, it only applies to microbusinesses authorized to engage in retail sales.

Subsection (h) contains an amendment to the requirement that surveillance recordings be kept for a minimum of 90 days. The Bureau has amended this section to clarify that the 90- day requirement is 90 calendar days. This was necessary to provide consistency with other sections of the regulations where the Bureau has clarified business days and calendar days.

Subsection (j) has been amended to insert “of” into “United States National Institute of Standards and Technology.” This change was necessary for accuracy. A grammatical change was also made to clarify the appropriate standards to be used.

Subsection (l)(3) amends a cross reference to subsection (i). This change was necessary due to the renumbering of the section.

#### § 5045. Security Personnel

This section has been amended to clarify that security personnel must be on-site at the licensed premises of a licensed retailer or licensed microbusiness authorized to engage in retail sales during the hours of operation. This was necessary because the Bureau has received questions requesting clarity on whether the security personnel needed to be on-site and the hours that the security personnel is required to be on-site. This change also clarifies that these requirements only apply to licensed retailers or licensed microbusinesses authorized to engage in retail sales.

#### Changes Made to Article 6. Track and Trace Requirements:

##### § 5048. Track and Trace System

Subsection (b)(2) is revised, by amending the requirement for a track and trace system account manager to sign up for and complete state mandated training, within five business days of license issuance, to five calendar days. This is necessary to keep the training requirement consistent among the licensing authorities.

Subsection (e)(2) has also been amended to incorporate by reference a form to be used by licensees to provide the required notification under this section. This is necessary for licensees to have clear guidance on how to provide to the Bureau the notification required under this section. The form also streamlines the notification process by assuring that licensees are able to fulfill its notification requirements without having to complete additional paperwork.

#### § 5049. Track and Trace Reporting

Subsection (b)(3) is revised to remove the term “sale price” and replace it with “wholesale cost.” This change is necessary to establish consistency in terms used in the Bureau’s regulations and terms used in regulations promulgated by CDTFA.

Subsection (b)(6)(A)(i) is revised, to make consistent and clarify that the premises address on the shipping manifest is the licensed premises address. This is necessary to avoid any confusion or ambiguity as to the address that needs to be included. It also assures consistency of terminology throughout the regulations.

Subsection (b)(6)(B) is revised, by adding “receipt” to the activity to be recorded in the track and trace system, to clarify and specify that the licensee receiving cannabis goods for transport, storage or inventory, shall record either acceptance or receipt in the track and trace system. This is necessary to avoid any confusion or ambiguity as to whether one type of transfer is exempt from the track and trace system, and to clarify that either type of transfer, which may have different considerations, is subject to such requirements.

Subsection (b)(6)(C) is revised, by adding “cannabis goods” to clarify that the discrepancy between type or quantity in the shipping manifest pertains to cannabis goods. This is necessary to avoid any confusion or ambiguity as to the types of goods that need to be identified in the shipping manifest.

Subsection (b)(7)(B) is revised, to clarify and specify that the licensee is required to record both destruction and disposal of cannabis goods in the track and trace system. This is necessary to ensure that both activities are properly recorded in the track and trace system, and one activity does not obviate the need to record the other activity.

Subsection (b)(7)(C) is revised, to clarify and specify that the name of the entity collecting and processing cannabis waste is the entity disposing of cannabis waste, and to reflect the removal of section 5055 of the division.

Subsection (b)(8)(B) is revised, to clarify and specify damage of cannabis goods is an event for which the licensee is required to record in the track and trace system, and to align with section 5052.1, allowing for the return of cannabis goods damaged during transportation.

The reference section was amended to identify the accurate reference sections in the Business and Professions Code.

#### § 5050. Loss of Access

Section is revised by amending “access” to “connectivity,” to clarify and specify that loss of access is specific to connectivity and the licensee’s ability to connect to the track and trace system. This is also necessary to keep track and trace provisions consistent among the licensing authorities.

Subsection (b) is revised, by removing the old subsection (b), and splitting the requirement to notify the Bureau, into a new subsection (b), and adding the requirement to document the cause for the loss of connectivity, and the date and time for when connectivity was lost and restored, into subsection (c)(2). Additionally, “transfer” has been removed from the section, to allow for certain commercial cannabis activities, such as retail sale to customers. Additionally, the Bureau has incorporated by reference a form to provide guidance on how to provide the required notification. The inclusion of a form was necessary to guide licensees to ensure they provide sufficient information for the Bureau to consider. The form also streamlines the notification process by assuring that licensees are able to fulfill its notification requirements without having to complete additional paperwork.

Subsection (c) is revised, to specify that licensees are required to enter into track and trace all commercial cannabis activity occurring during a loss of connectivity within three calendar days. The subsection has also been amended to require licensees to document the cause for the loss of connectivity and the dates and times when connectivity was lost and when it was restored. This will provide clarity to licensees on the requirements and is necessary to keep track and trace provisions consistent among the licensing authorities. It also assures that licensees update all cannabis activity in the track and trace system in a timely manner.

#### § 5051. Track and Trace System Reconciliation

Subsection (a) is revised, from requiring a track and trace system inventory reconciliation every 14 calendar days, to every 30 calendar days. This revision was necessary to provide licensees more time in which to conduct a reconciliation of inventory in the track and trace system, while assuring that reconciliation happens on a regular basis.

#### § 5052. Temporary Licenses; Licensees in Operation at Time of Licensure

Subsection (b) is revised, to correct a typographical error and clarify commercial cannabis activities, as defined under Business and Professions Code section 26001. The section has also been amended to add Section 26161 of the Business and Professions Code to the reference section, as well as to remove an unnecessary “and.” These changes were necessary for accuracy and grammatical purposes.

#### Changes Made to Article 7. Returns and Destruction:

##### § 5052.1 Acceptance of Shipments

Subsection (b) is revised, to allow for additional circumstances in which a licensee may reject a partial shipment of cannabis goods. Subsection (b)(2) has been added to allow for a licensee to reject a partial shipment of cannabis goods when those cannabis goods were damaged during transportation; subsection (b)(3) has been added to allow a licensee to reject a partial shipment of cannabis goods when it is non-compliant with labeling requirements or is expired. This is necessary to account for circumstances beyond the control of a licensee, necessitating the rejection of a cannabis good.

Subsection (c) is added to specify and clarify that these activities, including the specific reasons for rejection, must be recorded in the track and trace system. This is necessary to ensure that licensees are compliant with the track and trace system provisions, which ensures that cannabis goods are properly tracked, as required by statute.

The section has also been amended to add Section 26067 of the Business and Professions Code to the reference section. This change was necessary for accuracy.

#### § 5053. Returns Between Licensees

Subsection (a) is revised, to clarify and specify that the cannabis goods that may be returned are manufactured cannabis goods. The Bureau has determined that returns should be limited to only defective products, to protect consumer safety and ensure that returned products are destroyed appropriately to minimize diversion and ensure that cannabis waste is handled in compliance with state law related to waste. This change is necessary to ensure that non-manufactured cannabis goods are not returned and makes licensees aware of the distinction.

#### § 5054. Destruction of Cannabis Goods Prior to Disposal

The heading of this section is revised from use of the term “Cannabis Products” to “Cannabis Goods”, to more accurately reflect that the section applies to both cannabis and cannabis products as defined under the Business and Professions Code, section 26001. This is necessary to avoid any confusion or ambiguity as to what needs to be destroyed prior to disposal.

Subsection (a) amends the cross reference from section 5000(e) to 5000(g) to reflect updates and renumbering of that section. This is necessary to assure that readers may accurately reference the definition of cannabis waste.

Subsection (b) is revised, by removing the old subsection (b), and adding the new provision specifying that licensees must comply with all applicable waste management laws, including those found under Division 30 of the Public Resources, when handling cannabis waste. This is an existing provision under the proposed regulations, however, removed from the now deleted section 5055, and placed under section 5054, to make clear to licensees the requirement to comply with all applicable laws and regulations relating to waste management, as the proposed regulations have been revised to remove any requirements as to how a licensee disposes of cannabis waste.

Subsection (c) is added, to require that cannabis goods intended for disposal shall remain on the licensed premises until it has been rendered cannabis waste. This is to clarify and specify that cannabis goods that must be disposed of, due to any specified reason, such as a customer return, or failed batch, must be secured and separated from other cannabis goods on the licensed premises, with access limited to the licensee, its employees or agents, until it is destroyed and ready for disposal. This is necessary to ensure that the cannabis goods that are designated for disposal are not diverted into the illicit market.

Subsection (d) was formerly subsection (b) and is revised, to clarify and specify how to render cannabis goods into cannabis waste. This subsection is revised to provide additional clarification, that there is no requirement that vape cartridges be emptied of cannabis oil prior to disposal, provided that the vape cartridge itself is unusable at the time of disposal. The Bureau has learned that some licensees have contemplated utilizing a chipper or grinder to render such cartridges unrecognizable and unusable. However, the Bureau has determined that the vape cartridge needs to be unusable but does not need to be unrecognizable. Accordingly, this change is necessary as a precaution against unsafe handling of vape cartridges, or other like products, and to prevent diversion.

The original subsection (e) is removed as it is duplicative of the requirement to comply with all waste management laws; thus, it is not necessary to refer to a subset of those laws. The new subsection (e) contains a requirement previously contained in section 5055, to require a licensee to secure cannabis waste in a receptacle or area, when on the licensed premises. Access to the secured receptacle or area shall be limited to the licensee, its employees, or an authorized waste hauler. This is necessary to preserve the requirements for securing cannabis waste, under the revised and removed former section 5055.

The original subsection (f) is removed as it is duplicative of the requirement to comply with all waste management laws; thus, it is not necessary to refer to a subset of those laws. The new subsection (f), and contains a requirement that licensees report all cannabis waste activities, up to and including disposal, into the track and trace system. This is necessary to provide clarity to licensees on what activities related to cannabis waste must be entered into the track and trace system.

#### § 5055. Cannabis Waste Management

Section 5055, providing the ways in which a licensee may dispose of cannabis waste, such as composting or self-hauling, is removed in its entirety. Such methods are not prohibitive for licensees, but other laws and regulations on waste management will take precedence, as applicable, and require compliance by licensees. This was necessary, as the section may have been duplicative of existing laws and regulations relating to waste management.

### **Chapter 2. Distributors**

#### Changes Made to Chapter 2:

##### § 5301. Storage Services

Subsection (b) has been amended to clarify that storage services for other licensees for cannabis goods is limited to storage of cannabis goods that are packaged as they will be sold at retail. This amendment was necessary to ensure that cannabis goods are only stored after they have been packaged and thus protected from contamination.

Subsection (c) was added to require that cannabis goods stored under this section be stored in accordance with section 5302 regarding storage of batches for testing. This addition is necessary

to ensure that all cannabis goods and batches stored on a distributor's premises are stored in the same manner and readily identifiable. The addition of subsection (c) has required a renumbering of the former subsection (c), to subsection (d).

Subsection (d), formerly (c), has also been amended to clarify that the prohibition on storing live plants, does not apply to seeds. This change was necessary because the Act defines live plants to include seeds and the Bureau did not intend to prevent a distributor from storing seeds on the premises.

#### § 5302. Storage of Batches for Testing

Subsection (b)(1) has been amended to require that the label that is attached to each batch include the licensed premises address of the licensed manufacturer or licensed cultivator who provided the batch. The amendment to include the premises address is necessary for consistency with the requirements for the certificate of analysis and chain of custody that testing laboratories must generate. The addition of the word "licensed" to the words "manufacturer" and "cultivator" is necessary for consistency in terms throughout the regulations.

#### § 5303. Packaging, Labeling, and Rolling

The title of this regulation has been amended to include rolling as the Bureau allows distributors to roll pre-rolls.

Subsection (a) has been amended to provide clarity regarding how a licensed distributor may package, re-package, label, and re-label cannabis for retail sale. Specifically, subsection (a)(1) requires a distributor's packaging to meet certain requirements until January 1, 2020, including: packaging that shall protect the cannabis, including pre-rolls, from contamination; packaging that shall be tamper evident; packaging that shall be resealable if it contains more than one serving; and packaging that shall not imitate any package used for goods that are typically marketed to children. Subsection (a)(2) imposes additional requirements on a distributor's packaging starting January 1, 2020, including: packaging that shall be child-resistant until the package is first opened; packaging that is labeled with the statement, "this package is not child-resistant after opening;" and provides an exception to these requirements for immature plants and seeds. These changes were necessary for consistency between the licensing authorities regarding the packaging of cannabis goods. The changes were also necessary to provide additional clarity to licensees regarding how to satisfy the Act's packaging requirements. The Bureau determined that a transitional period assures that cannabis goods will be packaged in a child-resistant manner, while ensuring that licensees have an adequate amount of time to comply with packaging requirements.

The Bureau has amended subsection (b) to clarify that a distributor may not process cannabis but may roll pre-rolls that consist exclusively of any combination of flower, shake, leaf, or kief. This



amendment was necessary because the prior language was confusing and was not clear that the intent of the section was to allow distributors to roll pre-rolls and not simply package pre-rolls that had already been rolled. Additionally, subsection (b) specifies that pre-rolls shall be rolled prior to regulatory compliance testing. This is necessary, because the paper of a pre-roll will be consumed with the cannabis, thus the entire pre-roll must undergo regulatory compliance testing to ensure the pre-roll is safe for consumption. Subsection (b), which specified that distributors could only package, re-package, label, and re-label cannabis goods if they had a manufacturing license and were doing the activities on their manufacturing premises, has been deleted due to the changes in subsection (c) and to avoid confusion.

Subsection (c) has been amended to allow distributors to label and re-label a package containing manufactured cannabis goods with the amounts of cannabinoids and terpenoids based on laboratory testing results. The subsection previously only allowed distributors to re-label the package if the testing results were different than what was labeled. This was required because the CDPH required all manufactured products to be labeled at the manufacturer, however, the CDPH has proposed to amend their regulations to allow for labeling of cannabinoids and terpenoids to occur at the distributor premises after the distributor has received the testing results. This change was necessary because the Bureau and CDPH have determined that re-labeling was often necessary because the testing laboratory results did not match what was labeled on the package. Further, the certificate of analysis would often show that the cannabis goods had failed testing because of the label claim. This created confusion for licensees about whether a batch was able to be sold at retail. With this change, the label on the cannabis goods will match the certificate of analysis and the certificate of analysis will no longer show a batch failed for label claims on cannabinoids or terpenoids.

#### § 5303.1 Net Weight of Dried Flower

This section has been amended to provide a 3% variance for moisture loss in dried flower instead of a 2.5% variance. The Bureau has conducted additional research and determined that 3% is consistent with the variance for other types of goods established by the United States National Institute of Standards and Technology, thus a change was necessary.

The reference section has been amended to add Business and Professions Code section 26152. This was necessary for accuracy.

#### § 5304. Testing Arrangements

This section has been amended to add the term “licensed” in front of “testing laboratory.” This change was necessary for consistency of terminology used throughout the regulations. A grammatical change was also made after reference for this section.

### § 5305. Testing Sample

This section has been amended to clarify that the 90-day storage retention period for the video recordings of the sample selection is 90 calendar days. This was necessary to provide consistency with other sections of the regulations where the Bureau has clarified business days and calendar days.

#### § 5305.1. Resampling

This section has been added to clarify that once a sample has been obtained from a batch for regulatory compliance testing, a licensed distributor may not arrange for or allow another licensed testing laboratory to sample or re-sample the same batch for regulatory compliance testing, unless all of the requirements of section 5705 subsection (g) have been met. This section is necessary to prevent licensees from “shopping” between testing laboratory licensees for favorable testing results. It also ensures the Bureau is kept apprised of any testing activities conducted by licensed testing laboratories.

### § 5306. Laboratory Testing Results

Subsection (a) has been revised to amend the word “sample” to “batch.” This change is necessary for clarity because while a sample from the batch is tested, it is the whole batch that passes testing. Subsection (a) has also been revised to correct a typographical error.

Subsection (b) of this section has been amended to specify that a printed copy of the certificate of analysis for regulatory compliance testing shall accompany the batch and be provided to the licensee receiving the cannabis goods. This change was necessary to ensure that a licensee receiving a batch of cannabis goods that had been tested could verify the testing results by having a copy of the certificate of analysis.

Subsection (c) has been revised to amend the word “sample” to “batch.” This change is necessary for clarity because while a sample from the batch is tested, it is the whole batch that passes testing. The subsection has also been amended to correct a typographical error.

Subsection (d) has been amended to clarify a failed batch and not failed sample may be remediated. This change is necessary for clarity because while a sample from the batch is tested, it is the whole batch that fails testing. The subsection has also been amended to include the term “licensed” in front of “manufacturer.” This change was necessary for consistency of terminology used throughout the regulations. This subsection has also been amended to include requirements for remediation of cannabis goods that fail laboratory testing. The subsection requires distributors to ensure that a remediation plan is submitted by a licensed manufacturer to the CDPH or by a licensed microbusiness authorized to engage in manufacturing to the Bureau within 30 calendar days of issuance of the certificate of analysis. The subsection would also

require the distributor to ensure that the manufacturer, or microbusiness authorized to engage in manufacturing, begins remediation within 30 calendar days of receiving approval to remediate the goods. The subsection would also require that if the distributor cannot arrange for remediation within 30 calendar days of receiving a certificate of analysis then, the cannabis goods must be destroyed immediately. These changes are necessary to ensure that cannabis goods that have failed testing are remediated in a reasonable amount of time and do not remain on the premises of the distributor or microbusiness for an extended period of time. The Bureau determined that 30 calendar days was necessary as it provides a sufficient amount of time to remediate a batch, while minimizing the potential for failed product to be diverted into the illegal market.

Lastly subsection (e) of this section has been amended to specify in accordance with the new provisions of subsection (d) that a distributor shall destroy a batch that has failed laboratory testing and cannot be remediated within 30 calendar days of issuance of the certificate of analysis. The Bureau determined that 30 calendar days was necessary as it provides a sufficient amount of time to destroy a batch that cannot be remediated, while minimizing the potential for failed product to be diverted into the illegal market.

This section amends the references section to fix a typographical error.

#### § 5307. Quality-Assurance Review

This section has been amended to clarify that the certificate of analysis is for regulatory compliance testing and to add the term “licensed” in front of “distributor” in the first paragraph of the section for consistency of terminology used throughout the regulations. This section has also been amended to replace the term “sample” with “batch.” This change is necessary for clarity because while a sample from the batch is tested, it is the whole batch that passes testing and is found to meet specifications required by law. This section has also been amended to clarify that cannabis goods that are being transported to retailers or microbusinesses authorized to engage in retail sales shall be packaged as they will be sold at retail. This inclusion was necessary for consistency with other regulatory sections and to provide clarity to licensees. This section has also been amended to clarify that in transporting cannabis goods to a retailer or microbusiness, the microbusiness must be one that is authorized to engage in retail. This change is necessary for clarity and consistency with terms used throughout the regulations.

Subsection (a) has been amended to specify the certificate of analysis is for regulatory compliance testing rather than referencing section 5714. The subsection has also been amended to add the term “licensed” before testing laboratory. These changes are necessary for clarity and consistency in terms used throughout the regulations. The section has also been amended to clarify that the cannabis goods may be transported to another distributor once the certificate of analysis has been received. This addition is also necessary to align with approved and filed

Senate Bill 311, amending Business and Professions Code section 26110 to enable licensed distributor to licensed distributor transfers.

Subsection (b) is a new subsection that has been added to require that in order to transport cannabis goods to another licensee with the certificate of analysis, the certificate of analysis must be less than 12 months old. This is necessary to place an end date on the time frame during which cannabis goods can be transported from licensed distributor to licensed distributor without undergoing new testing. The Bureau determined that 12 months is necessary because it assures that the results found on the certificate of analysis are accurate.

Former subsection (b) is now subsection (c) has been amended to clarify the quality assurance duties of a licensed distributor or licensed microbusiness authorized to engage in distribution. Specifically, this section provides that if the cannabis goods are labeled with the content for cannabinoids, terpenoids, Total THC, and/or Total CBD prior to receiving the certificate of analysis for regulatory compliance testing, the licensed distributor shall ensure that the labeled amounts are accurate in accordance with section 5307.1 of the Bureau's proposed regulations. If the cannabis goods are not labeled with the content for cannabinoids, terpenoids, Total THC, and/or Total CBD prior to receiving the certificate of analysis for regulatory compliance testing, the licensed distributor shall label the cannabis goods with the amounts listed on the certificate of analysis pursuant to section 5303 of the Bureau's proposed regulations. These changes were necessary to provide additional clarity regarding the requirements of a licensed distributor or licensed microbusiness authorized to engage in distribution when checking the labels of cannabis goods. These changes were also necessary for consistency with the CDPH's regulations.

Subsection (e) is a new section that specifies that cannabis goods cannot be transported if they have exceeded their best-by, sell-by, or expiration date if one is provided. This is necessary to ensure the safety of consumers by prohibiting expired cannabis goods from being transported to retail.

Subsection (d) is now subsection (f) and has been amended to specify that licensed distributors shall use scales as required by the Business and Professions Code and not the Act. The Bureau determined that the citation to the Act was incorrect and that scales are governed under Division 5 of the Business and Professions Code.

Subsection (g) has been amended to state that a licensed distributor or licensed microbusiness authorized to engage in distribution shall ensure that all events prior to the receipt of the certificate of analysis for regulatory compliance testing have been entered into the track and trace system. This change is necessary to assure that licensed distributors or licensed microbusinesses authorized to engage in distribution confirm that all transactions are accurately recorded into the track and trace system once they receive the certificate of analysis for regulatory compliance

testing. It also assures that the regulatory agencies are apprised of accurate data related to the movement of cannabis goods within the track and trace system.

#### § 5307.1. Quality-Assurance Review for Labeling Cannabinoid Content

This section is a new section that is being proposed to provide variances for cannabinoid and terpenoid content from the labeled amount and the actual amount. This is necessary because the cannabinoid and terpenoid content is based on a sample from a batch. Each individual product of the batch is not tested, so there may be a variance in the labeled cannabinoid and terpenoid content and the actual content. The section allows for a plus or minus 10% variance. Subsection (c) provides the formula to calculate the difference in percent which is necessary to ensure licensees are calculating the difference in percent accurately and consistently.

Subsection (d) references the definitions for Total THC and Total CBD which are contained in chapter 6. This is necessary because the terms are used here but defined in chapter 6 as they primarily apply to the testing laboratory regulations and need to be included there for the convenience of the testing laboratories. Providing a cross-reference here will provide clear guidance to licensees on where to find these definitions.

#### § 5307.2. Licensed Distributor to Licensed Distributor Transfers

This section is a new section that has been added to clarify that cannabis goods, packaged as they will be sold at retail, that have undergone and passed regulatory compliance testing and have a certificate of analysis may be transferred to another licensed distributor. The section specifies that cannabis goods that have not been transported to retail within 12 months of the date on the certificate of analysis must be destroyed or retested. This is necessary to ensure that the certificate of analysis accurately reflects the cannabis goods when they are transferred to retail. This addition is also necessary to align with approved and filed Senate Bill 311, amending Business and Professions Code section 26110 to enable licensed distributor to licensed distributor transfers of cannabis goods fit for sale.

#### § 5308 Insurance Requirements

Subsection (e) of this section has been amended to allow for notification of a lapse in insurance within 14 calendar days instead of 10. This change is necessary for consistency with other notification requirements contained throughout the regulations. The subsection has also been amended to incorporate by reference new Notification and Request Form, BCC-LIC-027- (New 10/18), to be used by licensees to provide the notification to the Bureau that is required under this section. The form streamlines the notification process by assuring that licensees are able to fulfill its notification requirements without having to complete additional paperwork.

### § 5309 Inventory Accounting

This section has been revised to no longer require licensed distributors to perform inventory reconciliation every 14 days, therefore the title of the section has been amended to “Inventory Accounting” rather than “Inventory Reconciliation.” This section now requires a licensed distributor to be able to account for all inventory and provide that information to the Bureau upon request. The section further specifies that a licensed distributor shall be able to identify the status of the all batches of cannabis goods that are on the licensed premises and specifies that the status shall include: that the batch is held in storage for another licensee; that the batch is awaiting sampling, that the batch has been sampled and is awaiting testing results; that the batch has passed testing; that the batch has failed testing and is awaiting approval for remediation, that the batch has failed testing and is awaiting destruction; and the batch is stored or held for any other lawful purpose under the Act or the regulations. This change was necessary to be consistent with the track and trace system requirements and to ensure that licensees were not being required to duplicate their accounting of inventory under this regulation and the track and trace requirements.

### § 5310. Records

Subsection (f) of this section has been amended to require records related to disposal of cannabis goods. The regulation already required records related to destruction, but disposal was not specifically listed despite the Bureau’s intent that disposal records would be included with destruction. This change was necessary to provide clarity to licensed distributors on which records they must maintain.

Subsection (h) was amended to correct a grammatical error.

### § 5311. Requirements for the Transportation of Cannabis Goods

Subsection (a) of this section has been revised to clarify that all vehicles used for transportation shall be owned or leased, in accordance with the Vehicle Code, by the licensee. The Bureau already required this under section 5312, but there was confusion over the requirement including what it means to own or lease a vehicle. This section is necessary for consistency and clarity so that licensees know that they are required to own or lease the vehicles and that what constitutes ownership or lease of a vehicle is governed by the Vehicle Code.

Subsection (d) was amended to correct a grammatical error.

Subsection (f) has been amended to clarify that cannabis goods shall be in a fully enclosed box, container, or cage, and that no portion of the box, container, or cage shall be comprised of any part of the body of the vehicle or trailer. This change was necessary to address questions the

Bureau has received regarding what qualifies as a box, container, or cage by providing clarity on how a licensee may transport cannabis goods within a distribution vehicle.

Subsection (n) has been amended to correct the citation to the subsections. The Bureau determined upon review that it had made an error in the subsections it cited to, thus a change was necessary.

Subsection (o) has been added to this section to specify that notwithstanding the prohibition on certain means of transportation, cannabis goods may be transported via waterway to licensees located on Catalina Island. This amendment is necessary because there is no way to transport to Catalina Island by motor vehicle.

#### § 5312. Required Transport Vehicle Information

This section requires applicants and licensees to provide proof that the licensed distributor owns or leases the vehicles used for transportation. The Bureau has received a number of inquiries regarding this requirement and has determined that the current language is confusing, and applicants and licensees are unsure of what they need to provide as evidence, therefore an amendment was necessary. Subsection (a)(1) has been amended to replace the phrase “owns or holds a valid lease” with “is the registered owner under the Vehicle Code.” This will now clarify that licensed distributors may provide a copy of their vehicle registration as proof of ownership or lease.

Subsection (c) has also been amended to incorporate by reference new Notification and Request Form, BCC-LIC-027- (New 10/18), for licensees to use in providing to the Bureau the required notifications of this section. The form streamlines the notification process by assuring that licensees are able to fulfill its notification requirements without having to complete additional paperwork.

#### § 5315. Distributor Transport Only License

Subsection (a) of proposed regulation has been amended to add the term “authorized to engage in retail sales” after “licensed microbusiness.” This is necessary because the distributor transport only license requirements in this section only apply to microbusinesses that are authorized to engage in such activities. It is also necessary for consistency with terminology used throughout the regulations.

Subsection (g) has been amended to add the term “licensed” in front of manufacturing. This was necessary for consistency of terminology used throughout the regulations. Subsection (g) has also been amended to clarify that the citation to Article 5 is Chapter 1, Article 5. This change was necessary for accuracy and clarity.

## **Chapter 3. Retailers**

### Changes Made to Chapter 3:

#### § 5400. Access to Retailer Premises

Revised subsection (b) to clarify that individuals who are at least 21 years old may enter the premises of a licensed retailer that has a medicinal designation. Prior to the proposed amendment, the language of the regulation could be read to indicate that only persons who were 18 or older and were in possession of a valid physician's recommendation are authorized to access the licensed premises of a medicinal retailer. This restriction may have been interpreted to prohibit any person who did not have a physician's recommendation for medicinal cannabis from accessing the premises of a medicinal retailer regardless of their age. This would have prevented employees, vendors, and contractors who did not possess a physician's recommendation from accessing the premises. This amendment is necessary to clarify that medicinally designated retailers may grant access to the premises to individuals who are at least 21 years old, in compliance with the provisions of Business and Professions Code section 26140. Additional grammatical changes have been made to the section for accuracy and clarity.

Revised subsection (c) to make grammatical corrections and to specify that the premises referred to in the regulation is the retailer's premises.

#### § 5402 Customer Access to the Retail Area

Subsection (c) was amended to clarify that all sale of cannabis goods must occur in the retail area except for cannabis goods sold through delivery, a drive-in, or drive-through window. This amendment was necessary to specify the limited circumstances where authorized sales of cannabis goods may occur outside the retail area and to be consistent with section 5025 subsection (g).

#### § 5403.1 Requirements While Not Open for Business

This section was amended to correct a grammatical error. Subsection (a) previously stated that the premises is required to use nonresidential door locks as defined in section 5046 and the Bureau meant as required by section 5046.

#### § 5406. Cannabis Goods for Sale

Subsection (a) has been revised to clarify that licensed retailers may only sell cannabis goods that were received from a licensed distributor or a licensed microbusiness that is authorized to act as a distributor. The additional clarification is necessary to prevent readers from mistakenly interpreting the section to allow retailers to accept cannabis goods directly from any



microbusiness, instead of only from microbusinesses that are authorized to act as distributors. This change was also necessary to reflect consistency of terminology throughout the regulations.

Subsection (b) has been amended by replacing the phrase “expiration or sell-by date” with “best-by, sell-by, or expiration date.” This change was necessary for consistency of terminology used in the regulations.

Subsection (c) has been revised to remove the word “and” which was repeated in error.

Additionally, subsection (e) has been added to specify that a licensed retailer shall not make any cannabis goods available for sale or delivery unless the batch number is labeled on the package of cannabis goods and matches the batch number on the corresponding certificate of analysis for regulatory compliance testing. These changes are necessary to ensure that cannabis goods can be matched to the corresponding certificate of analysis. Former subsection (e) is now subsection (f) and former subsection (f) is now subsection (g).

The reference section has been revised to correct a typographical error.

#### § 5407. Sale of Non-Cannabis Goods

The title of the regulation section has been changed to remove the words “on premises.” This change was necessary to clarify that the requirements applies to all sales, including sales by delivery, which do not occur on the premises.

The section was amended to clarify that licensed retailers may provide customers with promotional materials rather than sell promotional materials. Prior to the proposed amendment, the language of the regulation indicated that retailers may sell cannabis goods, cannabis accessories, branded merchandise, and promotional materials. In many instances, promotional materials such as flyers are not sold to customers. The proposed amendment is necessary to clarify that retailers may provide customers with promotional materials free of cost instead of indicating that a retailer may only sell promotional materials.

The reference section has also been amended to add sections 26151 and 26152 of the Business and Professions Code. This is necessary for accuracy.

#### § 5408. Sale of Live Plants and Seeds

Subsection (a)(2) has been amended to clarify that the microbusiness cited to in this section must be a microbusiness authorized to engage in cultivation. This is necessary for clarity and consistency with terms used throughout the regulations.

#### § 5409. Daily Limits

Subsection (a) has been revised to change the term “concentrated cannabis” to “cannabis concentrate.” This is necessary for consistency with the Business and Professions Code.

This section adds subsection (e), which clarifies that the retailer is responsible for determining the amount of cannabis concentrates sold to customers in any form. In some instances, the amount of cannabis concentrates used in a manufactured product is not listed on the packaging. This has led to confusion regarding the application of this section. This new subsection clarifies that the retailer is the party responsible for identifying the total amount of cannabis goods sold to customers and ensuring that customers do not exceed the daily purchase limits set by the section, whether or not the amount of cannabis concentrates are listed on the product's packaging. A retailer may use any methods available for determining that the amount of cannabis goods sold to a customer does not exceed the daily limits, including obtaining information from the manufacturer.

#### § 5410. Customer Return of Cannabis Goods

Subsection (e) has been deleted and replaced with a new section which clarifies that defective manufactured cannabis products returned by customers to a licensed retailer may be returned to the licensee the goods were obtained from pursuant to section 5053. Prior to this proposed amendment, the language of the regulation appeared to indicate that all cannabis goods returned to a retailer had to be destroyed. However, section 5053 allows licensees to make returns of cannabis goods to other licensees so long as the cannabis good is found to be a defective manufactured cannabis good. In most instances, a retailer is not aware that a manufactured cannabis good is defective until it is sold to a customer and subsequently returned. This amendment is necessary to clarify that in these cases, the retailer is authorized to return the defective product to the distributor the product was obtained from.

The reference section has been revised to correct a typographical error.

#### § 5411. Free Cannabis Goods

Subsection (b) has been revised to correct a grammatical error.

Subsection (c) has been amended to remove equality and replace it with equity. This is necessary because equity was the intended term.

#### § 5412. Prohibition on Packaging and Labeling by a Retailer

Subsection (c) has been revised to remove duplicative language. The language in subsection (c) prior to this amendment indicated that a licensee who holds another commercial cannabis license may engage in packaging and labeling of cannabis goods under that other license. The Bureau has determined that this language is duplicative and not necessary. The new language in subsection (c) recognizes that it is important for licensed retailers to be able to effectively track their inventory of cannabis goods. An effective way of doing this is by placing barcodes on each product that allow the retailer to track the product. This amendment is necessary to clarify that the prohibition on labeling would not prevent a retailer from using barcodes or similar stickers on the packaging of cannabis goods for the purposes of inventory tracking.

### § 5413. Exit Packaging

The title of this section has been changed from “Exit Packaging” to “Cannabis Goods Packaging and Exit Packaging” as this section now address both types of packaging. This section has been revised to add additional requirements for cannabis goods packaging and exit packaging.

During the 15-day comment period subsection (a) was added to provide the requirements for cannabis goods packaging on all cannabis goods sold by a licensed retailer. Subsection (a)(1) required that all cannabis goods sold prior to January 1, 2020 be tamper-evident. The subsection also provided that cannabis goods packaging is not required to be resealable or child resistant. The Bureau determined that this clarification actually created more confusion regarding packaging and therefore the Bureau withdrew the subsection (a)(1). The Act already requires cannabis goods to be in tamper-evident, child resistant, resealable packaging prior to sale or delivery; thus, either the packaging itself or the exit package must meet these criteria until 2020. Subsection (a)(2) was renumbered to subsection (b) following the 15-day comment period and clarifies that beginning January 1, 2020, all cannabis goods sold by a licensed retailer must be packaged in resealable, tamper-evident, child resistant packaging. This is necessary to comply with the packaging requirements in Business and Professions Code section 26120 while providing licensees with time to comply with packaging requirements.

Subsection (b) was renumbered to subsection (c) following the 15-day comment period and has been added to provide the requirements for exit packaging. For the 15-day comment period, the Bureau had subsection (b)(1) requiring that all cannabis goods sold prior to January 1, 2020 be placed in resealable, child-resistant, opaque exit packaging and subsection (b)(2) clarifying that beginning January 1, 2020, all cannabis goods sold by a licensed retailer be placed in opaque exit packaging. The subsection also clarified that beginning January 1, 2020, exit packaging is not required to be resealable or child-resistant. However, following the 15-day comment period, the Bureau determined that the section caused more confusion rather than providing clarity. Thus, former subsections (b)(1) and (b)(2) have been withdrawn. Subsection (c) now provides the requirement that cannabis goods shall be placed in an opaque exit package prior to leaving the retail premises. This is necessary to comply with the packaging requirements in Business and Professions Code section 26120.

Subsection (d), formerly subsection (c) during the 15-day comment period, has been added to clarify that immature plants and seeds, which are not required to go through quality assurance or laboratory testing pursuant to Business and Professions Code section 26110, are not required to be in resealable, tamper-evident, child-resistant packaging. This is necessary as the Bureau has received inquiries about what the packaging requirements are for these items. The Bureau has determined that these items do not need to be in resealable, tamper-evident, child-resistant packaging.

#### § 5414. Non-Storefront Retailer

Subsection (a) has been revised to remove the word “cannabis” when describing the type of sales that a non-storefront retailer may engage in. By removing the word cannabis, the regulation no longer inadvertently prohibits non-storefront retailers from also engaging in the sale of cannabis accessories. This amendment is necessary to clarify that non-storefront retailers may sell any products that a storefront retailer is permitted to sell.

#### § 5415. Delivery Employees

Subsection (d) has been revised to clarify that the process of delivery ends when the delivery employee returns to the retail premises even if a delivery attempt is unsuccessful and the attempted delivery is never completed. Prior to the proposed amendment, the language of the regulation indicated that the process of delivery ends after the completion of the delivery of cannabis goods. However, the regulation did not address instances where delivery is attempted and fails for some reason. This amendment is necessary to clarify that the process of delivery would still end after the delivery employee returns to the retail premises after a failed delivery attempt. The section has also been amended to add the term “licensed” in front of retailer, this is necessary for consistency of terminology throughout the regulations.

Subsection (f) has been revised to simplify the requirement for delivery employees. Rather than providing specific requirements in this subsection, the subsection now references section 5413 of this division. All sales of cannabis goods through delivery are required to comply with the requirements of section 5413. This revision is necessary to clarify that the requirements are the same for cannabis goods sold to customers at the retail premises and cannabis goods delivered to customers.

#### § 5415.1 Deliveries Facilitated by Technology Platforms

Section 5415.1 is a new section that has been added to clarify the use of technology platforms by licensed retailers in the sale and delivery of cannabis goods. Business and Professions Code section 26001 defines delivery as the commercial transfer of commercial cannabis goods to a customer and includes the use by a licensed retailer of any technology platform. This section is added to clarify the use of technology platforms, as defined under the Act. The Bureau has found that a number of Bureau licensees engage in delivery services that are facilitated by technology platforms. However, use of such platforms has created confusion in customers as to whether a Bureau licensee is conducting the commercial cannabis activity. Moreover, some technology platforms may create the impression that they hold a Bureau license. Accordingly, the Bureau determined it was necessary to add section 5415.1 to clarify the responsibilities of Bureau licensees who engage in retail activities by using a technology platform to facilitate delivery activities.

Subsection (a) states that a licensed retailer or licensed microbusiness authorized to conduct retail activities shall not sell or transfer any cannabis goods through the use of an unlicensed third party, intermediary business, broker, or any other business or entity. This is necessary to clarify the statutory prohibition on licensed retailers using unlicensed third parties to deliver cannabis goods to customers. Business and Professions Code sections 26070(c) and 26090(a) allow only licensed retailers or licensed microbusinesses authorized to conduct retail activities to make deliveries and requires that any driver of a vehicle delivering cannabis goods be directly employed by the licensee authorized to deliver cannabis goods.

Subsection (b) clarifies that the use of a technology platform is allowed, with certain restrictions. Subsection (b)(1) states that licensed retailers may not allow the technology platform service provider to deliver cannabis goods on behalf of the licensed retailer. This is necessary to provide clear guidance to licensed retailers on the restrictions set in the Act that prohibit a licensed retailer from allowing another entity to deliver cannabis goods on its behalf. Subsection (b)(2), would prohibit a licensed retailer from sharing profits from cannabis goods sales with the technology platform service provider. This is necessary to ensure that the technology platform service provider is not engaging in unlicensed commercial cannabis activity by attempting to operate under the retailer's license through a profit-sharing agreement.

Subsection (b)(3) restricts the licensed retailer or licensed microbusiness authorized to conduct retail activities from advertising with the technology platform service provider, outside of the technology platform itself. This provision is necessary to align with advertising and marketing requirements under Business and Professions Code section 26150 et seq. The statutory provisions on advertising and marketing of cannabis goods prohibit a licensee from advertising or marketing in a manner that would be false, untrue, or would tend to create a misleading impression. The section would prevent any misleading impression that cannabis goods are sold by or purchased directly from a technology platform.

Subsection (b)(4) requires that licensees using technology platforms for the sale and delivery of cannabis goods ensure that customers accessing the technology platform receive specific information about the licensee selling the cannabis goods. Specifically, this subsection requires licensees to ensure that their legal business name, and license number, are associated with the cannabis goods displayed for sale on the technology platform. The subsection further specifies that the information must be available to the customer prior to the order being placed. Subsection (b)(5) requires that the legal business name and license number of the licensed retailer or licensed microbusiness authorized to conduct retail activities selling the cannabis goods, be included on the sales invoice or receipt, including any receipts provided to the customer. Subsection (b)(6) specifies and clarifies that licensees must comply with all other delivery, marketing, and advertising requirements.

This section is necessary to clarify that licensees, who are able to satisfy certain requirements to ensure customers know which Bureau licensee they are conducting business with, may contract with a service that provides a technology platform to facilitate the sale and delivery of cannabis goods. The proposed requirements not only ensure that the technology platforms used by licensees are not engaging in unlicensed commercial cannabis activity, but they ensure public health and safety by assuring that members of the public can readily identify the Bureau licensees that they are purchasing cannabis goods from.

#### § 5416. Delivery to Physical Address

Subsection (d) of this section has been amended to clarify that a delivery employee may deliver to any jurisdiction within the State of California provided that such delivery is conducted in compliance with all delivery provisions of the regulations. This change was necessary for clarity as the Bureau received feedback that this section could be read that all of the delivery rules may not apply.

Subsection (e) was added to include a restriction on delivering cannabis goods to a school providing instruction in kindergarten or any grades 1 through 12, day care center, or youth center. This amendment is necessary to further prevent the exposure of minors to cannabis by prohibiting deliveries to locations that commercial cannabis businesses are required to maintain specific distance from under Business and Professions code section 26054.

#### § 5417. Delivery Vehicle Requirements

Subsection (a) of this section was revised to clarify that vehicles used in delivery shall not have any markings or other indications that cannabis is being carried in the vehicle. This new restriction is intended to reduce the risk of the delivery vehicle becoming a target of theft or other crime. Subsection (a) was also amended to add the term “licensed” in front of retailer, this is necessary for consistency of terminology throughout the regulations. Subsection (b) was amended to add the term “licensed” in front of retailer, this is necessary for consistency of terminology throughout the regulations. Subsection (b) has also been amended to clarify that cannabis goods must be locked in a fully enclosed box, container, or cage. This change is necessary to provide clarity to licensees on how cannabis goods must be secured during delivery. Subsection (b) has also been amended to clarify that no portion of the box, container, or cage used to hold cannabis goods during delivery may be comprised of the body of the vehicle or trailer. This amendment is necessary to clarify potential confusion regarding the specific requirements of the box, container, or cage and serves to enhance public health and safety by limiting the potential for theft or other crimes while a delivery driver engages in the delivery process.

Subsection (c) was revised to clarify that any cannabis goods left in an unattended delivery vehicle shall be stored in a secure container as required in subsection (b) of the section. Prior to this proposed amendment, the regulations did not specify the requirements for cannabis goods left in an unattended delivery vehicle. This amendment is necessary to reduce the risk of theft of

the cannabis goods or other crime by ensuring that the cannabis goods are secured in the vehicle when left unattended. Subsection (c) was also amended to add the term “licensed” in front of retailer, this is necessary for consistency of terminology throughout the regulations

Subsection (d) was revised to clarify that the Global Positioning (GPS) device required to be used on all delivery vehicles be capable of maintaining a geographic record of all locations visited by the delivery vehicle while engaging in delivery. This is necessary to allow the Bureau and other law enforcement to verify that the delivery employee only was following all requirements while conducting deliveries. For example, the Bureau would be able to determine whether the delivery employee traveled out of state or performed a delivery of cannabis goods that was not properly documented by reviewing the delivery vehicle’s travel history. The Bureau has determined that 90 days is a reasonable amount of time for the licensee to maintain this information as it is consistent with the time video surveillance footage must be obtained.

#### § 5418. Cannabis Goods During Delivery

This section has been amended throughout by adding the term “licensed” in front of retailer throughout the section, this is necessary for consistency of terminology throughout the regulations.

Subsection (a) of this section has been amended to specify that the value of cannabis goods carried in the vehicle cannot exceed \$5,000 at any time. Further, the subsection specifies that the value of cannabis goods carried in the delivery vehicle for which a delivery order was not received and processed by the licensed retailer prior to the delivery employee departing from the licensed premises may not exceed \$3,000. This change is necessary to ensure that delivery employees are not driving around with a large amount of cannabis goods for which there are no orders, while still allowing retailers to have the flexibility of fulfilling orders while the delivery employee is out on the road.

Subsection (b) is a new subsection that specifies that the value of cannabis goods shall be determined using the current retail price of all cannabis goods carried by, or within the delivery vehicle. This requirement was removed from subsection (a) and separated into a new subsection. This is necessary to provide licensees with direction on how to calculate the value of cannabis goods that may be carried during delivery. Former subsection (b) is now subsection (c) and former subsection (c) is now subsection (d).

Former subsections (d) and (e) are now (e) and (f) respectively and have been revised to clarify that the delivery inventory ledger and the delivery log may be maintained electronically. Prior to the proposed amendment, the language did not specify whether these documents must be maintained in hard copy or electronic form. Subsection (e) has also been amended to clarify that the inventory ledger must clearly identify any cannabis goods carried by the delivery employee that are part of an order that was received and processed prior to the delivery employee leaving the retail premises. This clarification will better allow the Bureau to enforce the requirements of subsection (a) of this section.

Former subsections (f) through (i) are now subsections (g) and (j) respectively.

This section has also been amended to add Section 26160 of the Business and Professions Code to the references. This is necessary for accuracy.

#### § 5419. Cannabis Consumption During Delivery

The term “licensed” has been added in front of retailer. This is necessary for consistency of terminology throughout the regulations.

#### § 5420. Delivery Request Receipt

This section has been amended by adding the term “licensed” in front of retailer throughout the section, this is necessary for consistency of terminology throughout the regulations.

#### § 5421. Delivery Route

This section has been amended by adding the term “licensed” in front of retailer throughout the section, this is necessary for consistency of terminology throughout the regulations.

#### § 5422. Receiving Shipments of Inventory

Subsection (a) of this section has been amended to clarify that if a microbusiness is distributing cannabis goods to the retailer, the microbusiness must be one that is authorized to engage in distribution. This change is necessary for consistency of terminology used throughout the regulations. It also ensures that licensees are aware that only certain microbusinesses may engage in distribution activities.

Subsection (d) has been added which allows a retailer who only has one entry way to be exempt from the requirements of subsection (c) of this section if the retailer first obtains explicit authorization from the local jurisdiction. The Bureau recognizes that some local jurisdictions have approved premises with only one entryway onto their licensed premises. This proposed amendment is necessary to allow an alternate option for retailers who may have difficulty complying with the requirements of subsection (c) of this section due to the physical layout of a premises that has been approved by the local jurisdiction.

This section has also been amended to add Section 26012 to the reference section. This change is necessary for accuracy.

#### § 5424. Inventory Reconciliation

Subsection (a) has been revised to remove the inventory reconciliation requirement from the section. This section now requires a retailer to be able to account for all inventory and provide that information to the Bureau upon request. However, the inventory reconciliation requirement has not been removed completely. Licensed retailers are still required to conduct regular inventory reconciliation every 30 days under section 5051.



#### § 5425. Record of Sales

This section has been removed from the proposed regulation. This removal is necessary due to the changes made to the sections related to sales recordkeeping that have rendered this section unnecessary.

### **Chapter 4. Microbusiness**

#### Changes Made to Chapter 4:

#### § 5500. Microbusiness

Subsection (a) now allows for a Type N manufacturing license, which was created in regulation by the CDPH, to qualify as one of the activities for a microbusiness. This is necessary as the Bureau received comments that many jurisdictions will not allow businesses to engage in full Level 1 manufacturing in certain areas or in combination with certain cannabis activities but will allow for Type N license infusion only manufacturing activities. This is causing a barrier to entry for small businesses that have previously been in the industry or that want to enter the industry. The Bureau has determined that Type N activities are in fact manufacturing activities that are allowable under the Level 1 activity a microbusiness may engage in.

A cross reference has been changed for accuracy and grammatical correction has been made in this section as well.

The section has also been amended to add sections 26050 and 26051.5 of the Business and Professions Code to the reference section. This change is necessary for the accuracy.

#### § 5502. Cultivation Plan Requirements

This section includes certain non-substantive grammatical revisions, including the removal of semi-colons and addition of periods to provide added clarity to readers.

Subsection (b) has been amended to include a statement that for the purposes of cultivation activities of a microbusiness, the definition of immature plants will be as it is defined by the CDFA in regulation. This is necessary to ensure that the definition used for cultivation activities is consistent amongst the state licensing authorities.

Subsection (e) has been removed from the proposed regulation. This removal is necessary due to the changes made to the sections related to cannabis waste that have rendered this section unnecessary.

#### § 5504. License Issuance in an Impacted Watershed

This section has been revised to clarify that where a “licensed” microbusiness’ cannabis cultivation is causing significant adverse impacts on the environment in a watershed or other geographic area, the Bureau shall not issue new microbusiness licenses that include cultivation activities or increase the total number of plant identifiers within that watershed or area. This is necessary because it assures terminology consistency throughout the Bureau’s proposed regulations. It also clarifies that that such findings related to an impacted watershed involve active licensees.

The reference section has been revised to correct a typographical error.

#### § 5505. Cultivation Records for Licensees Engaging in Cultivation Activities

This section has been revised to clarify that “licensed” microbusinesses must maintain the identified records in this section. This is necessary because it assures terminology consistency throughout the Bureau’s proposed regulations. It also clarifies that the recordkeeping practices outlined in this section apply to active microbusiness licensees.

#### § 5506. Microbusiness Applications Including Manufacturing Activities

This section includes certain non-substantive grammatical revisions, including the addition of commas and edits regarding capitalization, to provide added clarity to readers.

Subsection (f)(2) has been amended to now require a copy of the product quality plan that meets the requirements established in regulation by the CDPH. This change is necessary to align with changes made by the CDPH, as microbusinesses engaged in manufacturing are required to comply with those regulations for their manufacturing activities.

In addition, subsection (f)(4) has been removed. This removal is necessary due to the changes made to the sections related to cannabis waste that have rendered this section unnecessary.

Subsection (g) has been removed as unnecessary as the Bureau’s regulations do not contain the process referred to in this section.

#### § 5506.1. Microbusiness Failed Manufactured Cannabis Product Batches

This section has been added to the regulations to provide clarity to microbusinesses on what they can do with manufactured cannabis product batches that have failed testing. This section is necessary because the regulations did not have any provisions for microbusinesses that are engaging in manufacturing to be able to remediate failed manufactured cannabis product batches. This section is necessary to provide consistency with the regulations promulgated by the CDPH, which regulates manufacturers.

Subsection (a) specifies that a failed batch shall be destroyed unless a corrective action plan for remediation is approved by the Bureau. This is necessary to include as it is required under the Act. This is also necessary so that the Bureau is notified of the corrective actions that may be taken by a licensee so that the Bureau can ensure violations are corrected to ensure the quality of cannabis products and to protect public health.

Subsection (b) clarifies that remediation or reprocessing of a failed batch must be done in accordance with section 5727. This is necessary for clarity and consistency amongst the sections regarding remediation.

Subsection (c) clarifies that edible products that fail laboratory testing shall not be remediated or reprocessed and shall be destroyed. The subsection also clarifies that if an edible product is remediated, reprocessed, or mixed with another batch, the cannabis product will be considered adulterated. Reprocessing edible products poses a public health risk as it increases the potential for contamination to be introduced into the product. This section is necessary to make clear edible cannabis products cannot be remediated and to provide consistency amongst the sections regarding remediation and to be consistent with the CDPH which regulates manufacturers.

Subsection (d) specifies that remediation or reprocessing may not occur unless the Bureau has approved a corrective action plan. The section also specifies what the corrective action plan must contain. Given the variety of types of cannabis products and the range of contaminants for which the cannabis batch may fail testing, corrective action plans must be approved on a case-by-case basis. Accordingly, this subsection is necessary to provide direction to licensees on how to receive approval to remediate or reprocess a failed cannabis batch.

Subsection (e) specifies that all remediation of cannabis goods shall be documented in the microbusiness' manufacturing records. This is necessary to ensure that licensees are aware of the records they must retain regarding remediation. This subsection also ensures that the Bureau has access to accurate information regarding a licensee's actions to remediate or reprocess a cannabis batch.

Subsection (f) has been added to the section to provide an exception to subsection (c). Under subsection (f) orally dissolving products that have failed laboratory testing due to exceeding the per package THC limits for adult-use manufactured cannabis products may be remediated by repackaging the product as a medicinal cannabis goods if certain requirements are met. This exception is necessary to provide an avenue for some failed cannabis goods to be reintroduced into the market instead of having to be destroyed. Cannabis goods that have failed for exceeding adult-use THC levels but would be compliant under medicinal rules are not inherently dangerous to the public and may potentially be sold as medicinal cannabis goods under this subsection.

## § 5507. Microbusiness Records for Licensees Engaging in Manufacturing Activities

This section has been revised to clarify that “licensed” microbusinesses must maintain the identified records in this section. This is necessary because it assures terminology consistency throughout the Bureau’s proposed regulations.

This section has also been revised to simplify the record keeping requirements for microbusiness licensees who are engaged in manufacturing. Rather than listing each record that may be maintained and indicating a specific section in the regulations developed by the CDPH, the section now simply indicates that microbusiness licensees that are engaging in manufacturing must maintain all records required for manufacturers by CDPH’s regulations.

The reference section has been revised to correct a typographical error.

## **Chapter 5. Cannabis Events**

### Changes Made to Chapter 5:

#### § 5600. Cannabis Event Organizer License

Subsection (b) has been revised to correct grammatical issues. Additionally, the section numbers indicating the regulation sections a temporary event organizer is exempt from has been amended to indicate the correct section numbers.

Subsection (d) has been revised to add the word licensee in order to provide additional clarity. In addition, a grammatical error was corrected in this subsection. This is necessary because it assures terminology consistency throughout the Bureau’s proposed regulations.

Subsection (g) has been revised to change the source for the definition of the term “owner” from the statutory definition to the definition provided in section 5003 of the proposed regulations. The revision is necessary because the definition provided in the regulations provides more clarification than is provided in the statutory definition. Additionally, amendments were made to correct grammatical errors.

Subsection (g)(14) has been revised to include bylaws in the list of business-formation documents and clarified that for trusts the Bureau must receive a copy of the certificate of trust establishing trustee authority. These changes are necessary for clarity and consistency with the section on annual applications.

Subsection (g)(16) has been revised to include a certificate of registration or certificate of status in addition to a certificate of qualification. This change is necessary for consistency with the annual application requirements. The Bureau determined that not all foreign corporations would have a certificate of qualification, and thus amended the section to include the other certificates that a foreign corporation is issued by the Secretary of State. This subsection also made a

grammatical change and amended “Secretary of State of California” to “California Secretary of State” for consistency with other regulations that reference this office.

Subsection (g)(18) has been revised to change the source for the definition of the term “owner” from the statutory definition to the definition provided in section 5003 of the proposed regulations. The revision is necessary because the definition provided in the regulations provides more clarification than is provided in the statutory definition.

Subsection (g)(19) has been revised to change the source for the definition of the term “owner” from the statutory definition to the definition provided in section 5003 of the proposed regulations. The revision is necessary because the definition provided in the regulations provides more clarification than is provided in the statutory definition.

Subsection (g)(22) has been added to require applicant’s to provide their State Employer Identification Number (SEIN) issued by the California Employment Development Department. This number is necessary to ensure that all applicants that are required to obtain such a number have obtained it and are thus, in compliance with California law. It also assures consistency with the Bureau’s annual application requirements.

Subsection (g)(23) has been added to require applicants with more than one employee, to attest that they currently employ, or will employ within one year of receiving a license, at least one supervisor and one employee who have successfully completed a Cal-OSHA 30-hour general industry outreach course offered by a training provider that is authorized by an OSHA Training Institute Education Center. This addition is necessary to align with approved and filed Assembly Bill 2799, amending Business and Professions Code section 26051.5 to include such a requirement. This will also provide the Bureau a comprehensive application and the necessary attestations to ensure that the applicant is fit for licensure.

#### § 5601. Temporary Cannabis Event License

Subsection (c) has been revised to indicate that the licensed organizer would be responsible for any violation of any requirement within the regulations or the Act committed by any licensee participating in the event. Prior to this proposed amendment, the regulation only listed violations of Business and Professions Code section 26070.5. The Business and Professions Code section was placed there in error. This amendment corrects the error.

Subsection (e) has been revised to clarify that the 60-day requirement is 60 calendar days. Prior to this proposed amendment it was unclear how licensees were to calculate the 60-day requirement.

Subsection (f) has been revised to allow a temporary cannabis event to take place at any venue expressly approved by the local jurisdiction. This amendment is necessary to align with approved

and filed Assembly Bill 2020, amending Business and Professions Code section 26200 to enable licensed temporary cannabis events to take place at any venue expressly approved by the local jurisdiction.

Subsection (h)(9) has been deleted to remove the requirement that a cannabis waste management plan be provided with the application. This change is necessary to be consistent with changes regarding cannabis waste. The remainder of subsection (g) has been renumbered to reflect the deletion of subsection (h)(9).

Subsection (h)(10) is now (h)(9) and has been revised to clarify that authorization from the local jurisdiction must also specify that the applicant is authorized to hold the event at the specific location. This amendment is necessary due to new provisions created by the passage of Assembly Bill 2020 which allows temporary cannabis events to be held at any location that have been explicitly approved by the local jurisdiction.

Subsection (h)(11) and (h)(12) have been renumbered to (h)(10) and (h)(11) respectively.

Subsection (i) has been revised to incorporate by reference new Notification and Request Form, BCC-LIC-027- (New 10/18), for licensees to use in providing to the Bureau notifications that are required under this section. This form is necessary to provide clear guidance to licensees on what information must be provided to the Bureau to request a premises modification. The form also streamlines the notification process by assuring that licensee able to fulfill its notification requirements without having to complete additional paperwork.

Subsection (j) has been revised to specify that the regulation applies to licensed cannabis event organizers. This proposed amendment provides additional clarity and assures terminology consistency throughout the regulations.

Subsection (k) was revised to specify that the regulation applies to licensed cannabis event organizers. This proposed amendment provides additional clarity and assures terminology consistency throughout the regulations.

Subsection (l) was revised to specify that the regulation applies to licensed cannabis event organizers. This proposed amendment provides additional clarity and assures terminology consistency throughout the regulations. Subsection (l) has also been amended to remove the reference to section 5055. Section 5055 has been removed from the division.

Subsection (m) was revised to specify that the regulation applies to licensed cannabis event organizers. This proposed amendment provides additional clarity and assures terminology consistency throughout the regulations.

Subsection (n) has been added to notify licensees who are participating in a temporary cannabis event that the Bureau may require all participants to cease operations to protect public health and

safety. This addition was necessary to reflect new language that was added to Business and Professions Code section 26200 by Assembly Bill 2020. The amended language of the statute is duplicated in this regulation to provide additional clarity to licensees regarding the terms and requirements for organizing and participating in a licensed temporary cannabis event.

Subsection (o) has been added to notify licensed event organizers that they must expel from the event any person who is engaging in the unlicensed sale of cannabis goods. This addition was necessary to reflect new language that was added to Business and Professions Code section 26200 by Assembly Bill 2020. The amended language of the statute is duplicated in this regulation to provide additional clarity to licensees regarding the terms and requirements for organizing and participating in a licensed temporary cannabis event. This subsection also requires the event organizer or their representative shall remain with a person being expelled at all times until the person vacates the premises. This is necessary to ensure that the person being expelled does actually leave the premises as required.

#### § 5602. Temporary Cannabis Event Sales

Subsection (c) has been revised to clarify that licensed retailers, licensed non-storefront retailers, and licensed microbusinesses that have been authorized to engage in retail sales may sell cannabis goods at a licensed temporary cannabis event. Prior to this proposed amendment, the language of the regulation indicated that only a licensed retailer may engage in sales at a licensed cannabis event. This amendment is necessary because it provides additional clarity regarding the specific license types that may engage in the sale of cannabis goods at a licensed cannabis event.

Subsections (i) and (j) have been revised to clarify that all cannabis goods available for sale are subject to quality assurance and security requirements. Prior to this proposed amendment, all cannabis goods at a licensed cannabis event were subject to these requirements. This clarification is necessary to clarify that these requirements are intended to only apply to cannabis goods that are made available for sale.

Subsection (l) has been revised to simplify the requirement for cannabis goods sold at a temporary cannabis event. Rather than providing specific requirements in this subsection, the subsection now references section 5413 of this division. All sales of cannabis goods at a licensed cannabis event are required to comply with the requirements of section 5413. This revision is necessary to streamline the text of the regulation.

Subsection (p) has been revised to specify that the regulation applies to licensed cannabis event organizers. This proposed amendment is necessary because it provides additional clarity and consistency of terminology throughout the regulations.

Subsection (q) has been revised to specify that the regulation applies to licensed cannabis event organizers. This proposed amendment is necessary because it provides additional clarity and consistency of terminology throughout the regulations.

The reference section has been revised to correct a typographical error.

#### § 5603. Temporary Cannabis Event Consumption

Subsection (e) has been revised to specify that the regulation applies to licensed cannabis event organizers. This proposed amendment is necessary because it provides additional clarity and consistency of terminology throughout the regulations.

Subsection (f) has been revised to specify that the regulation applies to licensed cannabis event organizers. This proposed amendment is necessary because it provides additional clarity and consistency of terminology throughout the regulations.

Subsection (g) has been removed. Removal of subsection (g) was necessary because it was duplicative of language in sections 5602 and 5603.

#### § 5604. Informational or Educational Cannabis Events

This section has been added and clarifies that informational or educational cannabis events where no sales of cannabis goods or consumption of cannabis goods is occurring are not required to be licensed by the Bureau. The section also clarifies that a person may display cannabis goods for informational or educational purposes consistent with Health and Safety Code sections 11362.1 and 11362.77. This section is necessary because the Bureau has received multiple inquiries regarding requirements for these types of events and a licensee's ability to participate in such events.

### **Chapter 6. Testing Laboratories**

#### Changes Made to Article 1. Chapter Definitions:

##### § 5700. Definitions

The numbering of the section has been modified to allow for the inclusion of additional definitions. The definitions for the terms "accreditation body" and "accredited college or university" have been reordered in order to properly place the terms in alphabetical order.

A definition of "cannabis concentrate" has been added to the section and defines a cannabis concentrate as cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product's potency. The definition clarifies that cannabis concentrates includes the following items: the separated resinous trichomes of cannabis, tinctures, capsules, suppositories, extracts, vape cartridges, inhaled products (such as dab,



shatter, and wax), and tablets as defined by the CDPH in regulation. This is necessary to clarify what a cannabis concentrate is, and to align with the term as it is used by other licensing authorities and in regulations.

The definition of “continuing calibration verification” has been revised to further clarify that a licensed testing laboratory must be able to test for each required analyte.

A definition of “good laboratory practice” has been added to the section and defines good laboratory practice as being a quality system of management controls for laboratories to ensure the uniformity, consistency, reliability, reproducibility, quality, and integrity of analyses performed by the testing laboratory. This definition is necessary because the term is used in the regulations to ensure that laboratories are operating in accordance with general laboratory standards.

The definition of “initial calibration verification” has been amended to remove “targeted” and replace it with “each of the targeted” for clarity. This is necessary to ensure that licensees understand that each analyte must be included.

The definition of “laboratory control sample” has been amended to clarify that spiked concentration must be at a mid-range concentration of the calibration curve for the target analytes. This change is necessary to ensure accuracy in testing procedures.

A definition of “linear regression” has been added to the section and defines linear regression as the determination, in analytical chemistry, of the best linear equation for calibration data to generate a calibration curve. The concentration of an analyte in a sample can then be determined by comparing a measurement of the unknown to the calibration curve. A linear regression uses the following equation:  $y = mx + b$ , where  $m$  =slope and  $b$ =intercept. This definition is necessary because the term is used in the regulations and ensures laboratories analyze cannabis goods samples using accurate calibration data.

The definition of “matrix spike sample” has been revised to provide additional clarity. This is necessary to ensure standardization in the licensees’ quality control procedures.

A definition for “orally-consumed product containing alcohol” has been added. This addition is necessary to clarify that an “orally-consumed product containing alcohol” means a liquid solution that contains more than 0.5% alcohol by volume as an ingredient, is not otherwise an alcoholic beverage as defined in Business and Professions Code section 23004, is packaged in a container no larger than two (2) fluid ounces and includes a capped calibrated dropper capable of accurately measuring servings. This definition is necessary to align with regulations promulgated by the CDPH which allows for certain products to contain alcohol as an ingredient. Without this definition testing laboratories would not be able to determine which cannabis products are exempt from the ethanol limit for residual solvent testing under section 5718.

A definition for “orally-dissolving product” has been added. This is necessary to clarify that the term “orally-dissolving product” as used in the regulations means an edible cannabis product that is intended to dissolve and release cannabinoids directly into the mouth, which allows them to enter the bloodstream through the tissue, such as sublingual lozenges or mouth strips. The definition further clarifies that orally dissolving products are not intended to be eaten or swallowed to enter the digestive system. This definition is also necessary to ensure consistency between regulations adopted by the Bureau and the CDPH.

A definition for pre-roll has been added to specify that for purposes of this chapter, pre-roll has the same meaning as in section 5000(q) and also includes pre-rolls infused with cannabis concentrate. This is necessary to ensure testing laboratories have accurate guidance to identify the type of cannabis goods being tested.

A definition for “quadratic regression” has been added to the section and defines quadratic regression as means the determination, in analytical chemistry, of the best parabola equation for calibration data to generate a calibration curve. The concentration of an analyte in a sample can then be determined by comparing a measurement of the unknown to the calibration curve. A quadratic regression uses the following equation:  $y = ax^2 + bx + c$ , where a, b, and c are numerical coefficients. This definition is necessary because the term is used in the regulations and ensures laboratories analyze cannabis goods samples using accurate calibration data.

The definition of “relative percent difference” has been amended to provide an abbreviation for the term defined, RPD, to allow for subsequent use of the abbreviated term in the regulations.

The definition of “relative standard deviation” to provide an abbreviation for the term defined, RSD, to allow for subsequent use of the abbreviated term in the regulations.

The definition of “representative sample” to clarify and specify what a “representative sample” comprises of, which is several sample increments of cannabis goods that are collected from a batch for testing.

The definition of “requester” has been amended to clarify and specify the requirement referenced in this subsection is a requirement under the Act, not under the proposed regulations.

The definition of “sampler” has been amended to clarify that a licensed microbusiness authorized to engage in distribution, not just any microbusiness, is included. This is necessary for clarity and consistency throughout the regulations.

A definition for “topical cannabis goods” has been added. This is necessary to clarify that the term “topical cannabis goods” means cannabis products intended to be applied to the skin and not intended to be ingested or inhaled. Liquid solutions shall only be considered topical cannabis goods if they are packaged in a container no larger than two (2) fluid ounces.

A definition for “total CBD” has been added and defines total CBD as the molar sum of CBD and CBDA. Total CBD is calculated using the following equation in which “M” is the mass or mass fraction of CBD and CBDA:  $M \text{ total CBD} = M \text{ CBD} + (0.877 \times M \text{ CBDA})$ . This definition is necessary so that laboratories have the correct formula to calculate total CBD.

A definition for “total THC” has been added and defines total THC as the molar sum of THC and THCA. Total THC is calculated using the following equation in which “M” is the mass or mass fraction of delta-9 THC or delta-9 THCA:  $M \text{ total delta-9 THC} = M \text{ delta-9 THC} + (0.877 \times M \text{ delta-9 THCA})$ . This definition is necessary so that laboratories have the correct formula to calculate total THC.

## **Changes Made to Article 2. Laboratory License:**

### § 5701. General Laboratory License Requirements

This section has been amended by adding Section 26012 of the Business and Professions Code to the reference section. This change is necessary for accuracy.

### § 5702. Laboratory License Application

This section has been amended to require that the standard operating procedures for testing foreign material be included with an application for licensure. The section has been amended to remove foreign material and moisture content from the required method validation reports for certain testing methods. These amendments were necessary for consistency with regulations regarding testing for these items. The section has been renumbered to account for these amendments.

This section has also been amended to remove section 26051.5 of the Business and Professions Code from the reference section. This is necessary for accuracy.

### § 5703. Interim Testing Laboratory License

The title of this section has been amended from “Provisional Testing Laboratory License.” The term “provisional” has also been replaced with the term “interim” throughout the section. These changes were necessary due to a recent change in legislation that created a provisional license category for all commercial cannabis licensees. Subsection (a) has been revised by replacing “A laboratory” with “An applicant” to specify and clarify that the provision applies to an applicant. This change is necessary for consistency in the use of terms throughout the regulations.

Subsection (b) has been revised to clarify and specify that the annual license fee is determined pursuant to the requirements in section 5014 for annual license fees for a testing laboratory license. This change was necessary to provide applicants clarity on how their licensing fee is determined.

Subsection (i) has been amended to require licensed testing laboratories to notify the Bureau if the licensee's application for ISO/IEC 17025 accreditation has been approved or denied within one day of receiving the decision. This is being changed from requiring the licensee to provide notice to the Bureau within five days of receiving the decision. This is necessary because the Bureau has determined that it is critically important that the Bureau be informed of a denial and for consistency with the statute. Additionally, the Bureau has determined that the additional burden to the licensee caused by this change is relatively small. Subsection (i) has also been amended to incorporate by reference a form for licensees to submit to the Bureau the required notification in this section. This is necessary to provide clear direction to licensees on how to submit the required notification.

The reference section has been revised to include section 26102 of the Business and Professions Code.

### Changes Made to Article 3. Sampling Cannabis and Cannabis Products

The Sampling -Standard Operating Procedures Form, BCC-LIC-021 (New 10/18) was amended to correct for typographical and grammatical errors. Specifically, section 4 for the signature of the supervisory or management laboratory employee was amended to section 3, to correct the numbering of the section.

### § 5705. General Sampling Requirements

Subsection (c) and (d) of this section have been amended by adding "from each batch" to the representative sample collected under subsection (c), and thus removing the now redundant old subsection (d), renumbering the remaining subsections, and clarifying in the new subsection (d) that "laboratory" as used, is a licensed laboratory premises. This change was necessary for consistency of terminology used throughout the regulations.

Subsection (f) is added and specifies that once a representative sample has been obtained for regulatory compliance testing, the testing laboratory that obtained the sample must complete the testing and report the results on the certificate of analysis. This addition is necessary to clarify the requirement for licensees, as the Bureau frequently receives questions regarding sampling and testing.

Subsection (g) is added and specifies that if circumstances exist that make it necessary to have a batch re-sampled and tested by another licensed testing laboratory after a representative sample has been obtained, the licensed distributor may submit a written request to the Bureau and that no re-sampling may occur without prior written approval from the Bureau. This is necessary to address situations in which it is necessary to have a batch re-sampled. Without this section, there would be no provision for the batch to be re-sampled. This will allow re-sampling in situations where the licensed laboratory can no longer competently complete the regulatory compliance

testing while preventing “laboratory shopping” to obtain a different result. This subsection also provides guidance to licensees as to where to send the request and what information must be provided to the Bureau in writing for the Bureau to determine if re-sampling will be allowed. This includes the names and license numbers of the parties, the batch numbers, the type and quantity of cannabis goods, and the reason the laboratory that originally took the sample cannot complete the testing. The Bureau will review the information and make a determination as to whether the laboratory cannot competently complete the testing, then may allow re-sampling in whole or part. The subsection also provides that re-sampling shall not occur without receiving written approval of the request from the Bureau. These provisions are necessary so the Bureau has all the information relevant to the request and so that any approval is in writing to avoid confusion.

#### § 5706. Chain of Custody

Subsections (b)(1) – (b)(4) of this section have been amended by adding “licensed premises” to address, to clarify and specify that the address is that of the licensed premises of the relevant licensee. This change was necessary for consistency of terminology used throughout the regulations.

Subsections (b)(9) and (b)(11) has been revised to correct a punctuation error.

Subsection (b)(10) has been revised to specify that the subsection applies to microbusinesses that have been authorized to engage in distribution. This is necessary to prevent potential confusion regarding which type of microbusiness the subsection may apply to.

Subsection (d) has been added to prevent any alteration to the chain of custody form after the custody of the sample has changed between licensees. This is necessary to prevent confusion and ensure forms are accurate.

The reference section has been revised to correct a typographical error.

#### § 5707. Harvest Batch Sampling

Subsection (b) of this section has been amended to clarify and specify that the collection referred to is a representative sample and that the percentage given is of the total harvest batch weight.

Subsection (c) has been revised to change the term “may not” to “shall not.” This is necessary for the consistent use of terms throughout the regulation.

Subsection (d) has been amended by adding “sample” before increments, to clarify and specify that the increments referred to are sample increments.

#### § 5708. Cannabis Product Batch and Pre-Roll Sampling

Subsections (b) and (d) of this section have been amended, by adding “sample” before increments, to clarify and specify that the increments referred to are sample increments.

Subsection (c) has been revised to change the term “may not” to “shall not.” This is necessary for the consistent use of terms throughout the regulation.

#### § 5709. Laboratory Transportation of Cannabis Goods Samples

Subsection (a)(1) and (a)(2) have been deleted. New subsection (a)(1) consolidated the requirements of former (a)(1) and (a)(2) and revised them for clarity, to provide requirements for the transportation of cannabis samples. This is necessary to ensure that the rules for the movement of cannabis goods in a vehicle are consistent throughout the regulations.

Subsection (a)(4), formerly (a)(5), has been amended to remove vehicle from the term alarm system. This is necessary for consistency with other sections of the regulations.

Subsection (a)(6), formerly (a)(7) of this section has been amended by clarifying and specifying that the compliance referred to, is regulatory compliance, and by removing the language pertaining to travel from the laboratory’s licensed premises when engaged in the transportation of cannabis goods. This is necessary to streamline the provision, as such language is unnecessary, in indicating that the laboratory employee may travel back to its own licensed premises.

Subsections (a)(7)-(a)(11) have been renumbered to account for the consolidation of subsections (a)(1) and (a)(2).

Subsection (b)(1) has been amended to require proof that the laboratory is the registered owner under the Vehicle Code for each vehicle used to transport samples. This change is necessary for consistency with changes made under section 5312.

Subsection (d) has been amended to clarify that the information licensees must provide to the Bureau is the information required under subsection (c) of the section. Subsection (d) has also been amended to incorporate by reference a form for licensees to use to submit to the Bureau the required notifications in this section.

The reference section has been revised to correct a typographical error.

#### § 5710. Laboratory Receipt of Samples Obtained from a Distributor or Microbusiness

Subsection (a) has been revised to specify that the subsection applies to microbusinesses that have been authorized to engage in distribution. This is necessary to prevent potential confusion regarding which type of microbusiness the subsection may apply to.

Subsection (b) has been revised to specify that the subsection applies to microbusinesses that have been authorized to engage in distribution. This is necessary to prevent potential confusion regarding which type of microbusiness the subsection may apply to. Subsection (b) has also been revised to correct a typographical error.

#### Changes Made to Article 4. Standard Operating Procedures:

##### § 5711. Laboratory Analysis Standard Operating Procedures

The Sample Preparation -Standard Operating Procedures Form, BCC-LIC-022 (New 7/18) was amended to correct for typographical and grammatical errors. Specifically, section 5 for the signature of the supervisory or management laboratory employee was amended to section 4, to correct the numbering of the section.

This section has been revised to reorganize the content into subsections. This is necessary to provide additional clarity.

##### § 5712. Test Methods

This section has been amended by adding Section 26012 of the Business and Professions Code to the reference section. This change is necessary for accuracy.

##### § 5713. Validation of Test Methods

Subsection (b) has been revised to provide additional clarification on how licensees are expected to use the table provided in the section to validate test methods for microbial analyses of samples. Subsection (b)(1) has been deleted as the information has not been included in subsection (b).

Subsection (c)(1)(C) has been amended by renumbering old subsection (c)(1)(C)(ii) to new subsection (c)(1)(C)(iii) and adding new subsection (c)(1)(C)(ii), to clarify and specify that linear regression or quadratic regression shall only be used for calibration curves. This is necessary to ensure that laboratories are appropriately calculating calibration curves. This section has also been amended to incorporate by reference the Notification and Request Form, BCC-LIC-027 (New 10/18), for licensees to use to submit to the Bureau the required notifications in this section.

Subsection (c)(D)(ii) has been revised to include the requirement that the percent recovery must be between 70% to 130%. This is necessary to ensure consistency with section 5730, subsection (g).

Subsection (d)(8) has been amended to incorporate by reference the Notification and Request Form, BCC-LIC-027 (New 10/18), for licensees to use to submit to the Bureau the required notifications in this section. This is necessary for consistency throughout the regulations.

## Changes Made to Article 5. Laboratory Testing and Reporting:

### § 5714. Required Testing

The section has been amended by revising the numbering of the subsections and adding a new subsection (a) that specifies and clarifies that all sample increments collected must be homogenized prior to sample analyses, notwithstanding foreign material testing. This is necessary to ensure that sample increments are homogenized, to preserve the integrity of testing, and standardize sample preparation procedures.

A new subsection (d) has been added to clarify and specify that the laboratory collecting the representative sample, is to be the laboratory that completes all the required testing for each representative sample for regulatory compliance testing. This is necessary to ensure that representative samples are not being tested by different licensed laboratories and are only being tested by the laboratory collecting the sample, and to preserve the integrity of testing.

The reference section has been revised to correct a typographical error.

### § 5715. Phase-In of Required Laboratory Testing

This section has been amended by adding Section 26110 of the Business and Professions Code to the reference section. This change is necessary for accuracy.

### § 5718. Residual Solvents and Processing Chemicals Testing

Subsection (a) has been amended to require the laboratory analyze at minimum 0.25 grams of the representative sample of cannabis products or pre-rolls to determine whether residual solvents or processing chemicals are present. This is necessary to set a minimum sample size to ensure consistency in laboratory testing. Subsection (c) has been deleted as it is no longer necessary.

Subsection (d) is now subsection (c) and has been amended by specifying that a sample shall be deemed to have passed the residual solvents and processing chemicals testing if the presence of any residual solvent or processing chemical listed in the tables in Category I and Category II does not exceed the indicated action levels. The proposed language would have required testing laboratories to establish a limit of quantification (LOQ) of 1.0 µg/g or lower. The Bureau received numerous comments that the proposed language is arbitrary and that it increases the variability in testing results from one laboratory to the next. Numerous commenters specifically requested that the Bureau establish specific action levels for Category I solvents, rather than allowing laboratories to establish a LOQ on their own. Thus, the Bureau determined that specific action levels are necessary to ensure standardization across the licensed laboratories.

The action level for ethanol has been revised from 1000 to 5000. This will maintain the action level that is currently in place under the Bureau's readopted emergency regulations. The Bureau received comments that the 5000 action limit should be maintained. This limit is



consistent with the recommendations in the US Pharmacopia and the Bureau has determined that this level will not negatively impact the public health and safety. The other action levels in the section for residual solvents and processing chemicals have also been revised to the levels that are currently in place under the Bureau's emergency regulations. This is necessary because the action levels previously adopted under the Bureau's emergency regulations are consistent with recommendations in the US Pharmacopia and the Bureau has determined that such levels will not negatively impact the public health and safety.

Subsection (c)(1) has been revised to clarify that rather than being applied to "tinctures" the subsection is to be applied to "orally-consumed products containing alcohol" as defined in section 5700. This is necessary to allow for the use of more precise terms within the proposed regulation.

Subsection (c)(2) has been amended to clarify and specify the exception to the action limits for Category I and Category II residual solvents and processing chemicals, applies to limits on ethanol for topical cannabis products, which is defined in section 5700. This is necessary to reflect the amendment to section 5700, adding new definitions for topical cannabis products.

Subsection (e) has been renumbered to (d).

#### § 5719. Residual Pesticides Testing

Subsection (c) deleted the word "quantification" and replaced it with "quantitation".

Subsection (e) has been amended to add the term "residual" in front of pesticides. These changes are necessary for accuracy and clarity.

#### § 5724. Cannabinoid Testing

Subsection (a) has been amended to remove the requirement that the laboratory must determine the cannabinoid profile for the purpose of determining whether the cannabinoid profile as presented on the package label conforms to the cannabinoid profile as determined through analytical testing. This amendment is necessary because some cannabis goods samples, namely flower, may be obtained and sampled prior to packaging and labeling in which case there is no package label available for comparison by the laboratory. In addition, the Bureau received comments requesting that the Bureau not require laboratories to perform label-verification and that this requirement is unconventional for analytical laboratories. The Bureau determined that label-verification by testing laboratories was unnecessary, thus the Bureau has amended the quality assurance provisions required of licensed distributors to ensure that cannabis goods labels are accurate.

Subsection (b) has been amended to establish a limit of quantitation (LOQ) of 1.0 mg/g or lower for all cannabinoids analyzed and reported. This change is necessary to ensure there is

consistency amongst all testing laboratories by establishing a standard LOQ. The term “limit of quantitation” is defined under section 5700 and used in section 5731 and is the correct term for use in this section. However, the Bureau discovered during the 15-day comment period that it had made a typographical error in the modifications to the text and notice regarding this section and typed “limit of quantification.” As the use of quantification was a typographical error, the Bureau has amended the section by replacing quantification with quantitation.

Subsection (c) has been amended to clarify how the result of cannabinoid testing on the COA is reported requiring a percentage for THC and CBD and providing how the amounts of cannabinoids are reported if it is by dry-weight or volume. The section also requires that the milligrams per package and per serving for THC and CBD be reported. These changes are necessary because under the previously proposed language laboratories were required to verify the cannabinoids on the cannabis goods label. With the changes in this chapter and in chapter 2, laboratories will now be simply testing the cannabis goods and reporting the cannabinoid profile and will not be verifying the label claim.

Subsection (d) has been revised to specify the maximum content of THC permitted based on product type. Subsection (d)(1) specifies that for edible cannabis products the milligrams per serving for THC cannot exceed 10 milligrams per serving which is necessary for consistency with regulations promulgated by the CDPH. Subsection (d)(2) establishes an allowable concentration of 100 mg per package for edible cannabis products that are not medicinal orally dissolving products which is necessary for consistency with regulations promulgated by the CDPH which restrict all edible cannabis products, except for medicinal orally dissolving products, to an allowable concentration of 100 mg or less per package. Likewise, subsection (d)(3) establishes an allowable concentration of 500 mg per package for edible cannabis products that are orally dissolving, such as sub-lingual concentrates, and labeled “FOR MEDICAL USE ONLY” which is necessary for consistency with regulations promulgated by the CDPH which restrict medicinal orally dissolving edible cannabis products to a concentration of 500 mg or less per package. Subsection (d)(4) specifies that cannabis concentrates and topical cannabis goods that are not labeled “FOR MEDICAL USE ONLY” shall not exceed 1000 milligrams per package. Subsection (d)(5) specifies that for cannabis concentrates and topical cannabis goods labeled “FOR MEDICAL USE ONLY” shall not exceed 2000 milligrams per package. Both changes in subsection (d)(4) and (d)(5) are necessary for consistency with regulations promulgated by the CDPH regarding the allowable concentration of THC for medical and non-medical cannabis concentrates and topical cannabis goods. Although the Bureau removed the allowable variances for testing in this section, a plus or minus 10% variance to these limits is now contained in section 5307.1 such that a batch passes testing if it is within this variance.

Subsection (e) will specify that the laboratory shall report the test results and indicate an overall pass or fail on the certificate of analysis. This is necessary so that licensees will clearly be able to tell if the cannabis goods have passed testing and can be sold.

Subsection (f) will specify how cannabinoids that are found to be less than the LOQ are reported. This is necessary because micro-dosed cannabis products often have levels that are undetectable or very low concentrations. Previously, the laboratories would report “ND” (non-detect) for such low levels, but “ND” is not easily understood by the general public, therefore not appropriate to use on the label. This will provide a consistent means of reporting these cannabinoids that are at microlevels.

Former subsection (e) has been renumbered and is now subsection (g).

#### § 5725. Terpenoid Testing

This section has been amended to require laboratories to test for terpenoids and report the result on the certificate of analysis. The section previously provided a variance for label claims and the actual test result. The changes in this section have streamlined terpenoid testing and will allow for laboratories to simply report the test result and not be required to compare the results to labels. This section has also been amended to add the words “if requested” before the requirements for the laboratory. This is necessary for clarity as terpenoid testing is not required, however, if it is requested, certain requirements apply.

Although the Bureau removed the allowable variances for testing in this section, a plus or minus 10% variance to these limits is now contained in section 5307.1 such that a batch passes testing if it is within this variance.

#### § 5726. Certificate of Analysis (COA)

Subsection (c) has been amended to specify the email address for which certificates of analysis (COA) are submitted to at the Bureau. This is necessary to ensure that licensees are correctly submitting the COAs, and that the Bureau is receiving them. Subsection (c) has also been amended to remove the requirement that the testing laboratories must provide the test results to other requestors.

Subsection (d) has been added to the section. The addition of subsection (d) has required the renumbering of subsequent subsections accordingly. New subsection (d) specifies and clarifies that the laboratory shall not release to any person any cumulative or individual test results prior to completing all analysis and providing the COA to the Bureau. This is necessary to ensure that test results remain confidential, pursuant to statutory requirements, and to preserve the integrity of the testing.

A new subsection (e)(1) has been added that requires the COA form to contain the term “Regulatory Compliance Testing” on the upper-right corner of each page of the COA, in a font

no smaller than 14-point, with no text or images appearing above that term on any page of the COA. This is necessary to ensure that those reviewing the COA are aware it is a COA for regulatory compliance testing, and to preserve the integrity of the testing.

Subsections (e)(2) through (e)(7) have been renumbered and revised to clarify and specify that the address referred to, is the licensed premises address. This is necessary to ensure that the COA contains correct information that accurately reflects the licensee information.

Subsection (e)(2) has been amended to remove the term “physical” and replace it with “licensed premises” for clarity.

Subsection (e)(3) has been revised to specify that the subsection applies to microbusinesses that have been authorized to engage in distribution. This is necessary to prevent potential confusion regarding which type of microbusiness the subsection may apply to.

Subsection (e)(4) has been amended to remove the term “physical” and replace it with “licensed premises” for clarity.

Subsection (e)(5) has been revised to clarify that packaged cannabis goods must have a labeled batch number that matches the batch number of the COA. This is necessary to ensure that licensees and the Bureau are able to clearly identify the batches held by the licensee as well. This will also reduce the risk of potential error and confusion in matching up COAs with their respective batches.

Subsection (e)(8) has been renumbered and revised to clarify and specify that the picture on the COA of a sample must include an unobstructed image of the packaging, if the sample is pre-packaged. This is necessary to ensure accurate identification of the sample and compliance with testing and labeling.

Subsection (f)(5) has been amended to clarify that the section does not apply to the reporting of cannabinoid results. Former subsection (f)(5) has been removed because it is no longer necessary due to the changes in label claim review.

#### § 5727. Remediation and Resting

Subsection (a) has been revised to remove the language indicating that edible cannabis products may not undergo additional processing after a failed laboratory test. This restriction is no longer in place. Although most edible cannabis products may not undergo remediation. In certain circumstances, limited forms of remediation may be performed on edible cannabis goods that have failed laboratory testing.

Subsection (b) of this section has been removed due to changes in the section 5303 which have rendered this subsection unnecessary. The other subsections of this section have been renumbered to account for the removal of subsection (b). Lastly clarification has been made in new subsection (b) to clarify that a microbusiness referenced in this section must be one that is authorized to engage in distribution. This change is necessary for consistency of terminology used throughout the regulations.

Subsection (c) has been revised to clarify that the subsection applies only to failed batches.

Subsection (e) has been revised to correct grammatical errors.

Subsection (f) has been added to clarify that the section would not prevent a cannabis goods batch from being retested when the COA is 12 months old or older. This is necessary to clarify that cannabis batches that have a COA that has expired due to time, may be retested and sold.

#### Changes Made to Article 7. Laboratory Quality Assurance and Quality Control:

##### § 5729. Laboratory Quality Assurance (LQA) Program

Subsection (a)(2) has been amended to include good laboratory practice as a requirement that must be addressed in the LQA manual. This change is necessary to ensure laboratories are utilizing good laboratory practice and to preserve the integrity of laboratory testing.

##### § 5730. Laboratory Quality Control (LQC) Samples

The section has been revised to clarify and specify that the laboratories must adhere to good laboratory practice, as defined under section 5700. This is necessary to ensure that laboratories maintain a quality system of management controls that preserves the integrity of testing, by ensuring consistency, reliability, and reproducibility. This is also necessary to ensure laboratories are reporting truthfully and adhering to quality assurance and quality control procedure.

Subsection (b) has been revised to clarify and specify that in addition to the negative and positive control used in each analytical batch during microbial testing, a laboratory replicate sample is also to be used. This is necessary to ensure laboratories are testing for microbials appropriately.

The section has been renumbered for clarity.

##### § 5731. Limits of Detection (LOD) and Limits of Quantitation (LOQ) for Quantitative Analyses

The reference section has been revised to correct a typographical error.

##### § 5732. Data Package

This section has been amended to incorporate by reference new Data Package Cover Page and Checklist, Form BCC-LIC-024 (New 10/18) to provide the items that must be included in a data package. The section has been amended to remove the requirements that are now included in the form. The form is necessary to provide clear guidance to laboratories on the required items that must be in the data package. It also ensures consistency amongst the data packages submitted by different laboratories.

### § 5733. Required Proficiency Testing

Subsection (h) has been revised to replace the acronym PT with the term “proficiency testing.” This is necessary for additional clarity. Subsection (h) has also been revised to incorporate by reference a form for licensees to use to submit to the Bureau the notifications required under this section. This is necessary for consistency and clarity throughout the regulations.

### § 5735. Laboratory Audits

Subsection (e) has been amended to incorporate by reference new Notification and Request Form, BCC-LIC-027- (New 10/18), for licensees to use to submit to the Bureau the notifications required under this section. This is necessary for consistency and clarity throughout the regulations.

## **Chapter 7. Enforcement**

### Changes Made to Chapter 7:

#### § 5800. Right of Access

Subsection (a)(5) was added for the 15-day comment period to specify that the Bureau may collect evidence related to any alleged violation of the Act or the regulations for the purpose of preserving such evidence during the course of investigation and subsequent disciplinary proceedings. However, the Bureau determined that the provision duplicated rights contained in the Administrative Procedure Act and therefore has withdrawn the subsection.

Subsection (c) has been revised, to clarify and specify the access rights of the Bureau, to full and immediate access, as allowed by law. This is necessary to clarify and specify that there are limited restrictions as to when and how the Bureau may conduct an inspection, audit, review, or investigation, and to ensure access allows the Bureau to appropriately address any immediate safety concerns.

The reference section has been revised to correct a typographical error.

#### § 5801. Notice to Comply

Subsection (a) has been amended to add that the notice to comply may also be issued for violations discovered during an investigation as well as observed during an inspection. This is necessary to ensure that the Bureau has the ability to assist licensees in coming into compliance with all laws and regulations, and that licensees have an opportunity to correct any violations, however discovered, before fines are assessed through the citation process or disciplinary action, or other administrative or civil action.

Subsection (c) is revised, to streamline the language, regarding whom may be delegated by a licensee, employee, or agent for purposes of serving a notice to comply. This is necessary to provide clarification and avoid any confusion or ambiguity. This subsection is also revised to

make consistent the changes to subsection (a) relating to violations discovered during an investigation. This is necessary to clarify when a notice to comply can be served or delivered, specifically, 15 calendar days after the last date of inspection or discovery of the violation.

Subsection (d) has been revised to change the notification requirement from 15 days to 20 days. This is necessary as the Bureau has determined that requiring notice within 15 days may be too onerous and 20 days would allow the licensee more time while not negatively impacting the Bureau's ability to regulate effectively.

#### § 5802. Citations; Orders of Abatement; Administrative Fines

Subsection (c) is revised, by restructuring the subsection to provide additional clarity about what each citation must contain. The revisions do not make any substantive changes to the requirements. This is necessary to avoid any confusion or ambiguity as to what information is to be contained in a citation.

Subsection (e) is revised, to clarify and specify that the factors under Business and Professions Code section 125.9 used to assess a fine, are for fines contemplated and issued under this section. Such changes are necessary for clarity and consistency of terminology within the Bureau's regulations.

The reference section has been revised to correct a typographical error.

#### § 5803. Contesting Citations

Subsection (a) is revised, by restructuring the subsection to provide clarity about the process to contest a citation. The revisions do not make any substantive changes to process. This is necessary to avoid any confusion or ambiguity as to the process.

#### § 5806. Attire and Conduct

Subsection (b) is revised, to correct a typing error, by amending "(a)(1)" to "(a)," as subsection (a)(1) does not exist.

#### § 5807. Entertainers and Conduct

Subsection (b) is revised, by removing "above" and replacing with "in this section," for clarity regarding the prohibited activities.

#### § 5809. Disciplinary Actions

Subsection (a) is revised, to clarify and specify that a license means a licensee. This revision is necessary for clarity and consistency of terminology in the regulations.

Subsection (c) has been revised to correct a typographical error.

The reference section has been revised to correct a typographical error.

#### § 5810. Interim Suspension

Subsection (b) has been revised to correct a typographical error.

The reference section has been revised to correct a typographical error.

#### § 5811. Posting of Notice of Suspension

This section has been amended to incorporate by reference new Notification and Request Form, BCC-LIC-027- (New 10/18), for licensees to use to submit to the Bureau the notifications required under this section. The inclusion of a form was necessary to guide licensees to ensure they provide sufficient information for the Bureau to consider. The form also streamlines the notification process by assuring that licensees are able to fulfill its notification requirements without having to complete additional paperwork.

#### § 5812. Posting of Notice of Revocation

Subsections (a) and (c) are revised, to clarify and specify that the signage required for a revoked license is on the premises where the revoked license was held. This is necessary to avoid any confusion or ambiguity as to whether the revoked license remains active or in use during the requirement to post notice.

Subsection (e) is revised, by adding “the notice” to the item to be displayed, to clarify and specify, that the failure to display, pertains to the notice referenced in the section. This is necessary to avoid confusion or ambiguity as to what is required to be displayed under the subsection.

Subsection (f) has been revised to incorporate by reference new Notification and Request Form, BCC-LIC-027- (New 10/18), for licensees to use to submit to the Bureau the notifications required under this section. The inclusion of a form was necessary to guide licensees to ensure they provide sufficient information for the Bureau to consider. The form also streamlines the notification process by assuring that licensees are able to fulfill its notification requirements without having to complete additional paperwork.

#### § 5814. Disciplinary Guidelines

This section has been revised to reflect the accurate date of the Disciplinary Guidelines. This is necessary as the proposed regulations and Disciplinary Guidelines are amended throughout the regulatory process.

Section I of the Disciplinary Guidelines provides a brief description of the guidelines as well as providing information regarding the intended use of the Disciplinary Guidelines. Section I has been revised to remove the phrase “against a registrant or licensee,” from the third paragraph. This is necessary to provide additional clarity.



Section II of the Disciplinary Guidelines contains the factors to be considered in determining penalties. This section provides some level of consistency in determining penalties as the listed factors may all be considered when determining a penalty. The factors take into consideration things such as the actual or potential harm caused by the violation, the licensee's history of committing violations, and any mitigating circumstance. Section II of the Disciplinary Guidelines has been amended to add the nature and severity of the violations, as a factor to be considered. This is necessary to clarify that violations are included and considered part of the acts and offenses under consideration for discipline and probation. If a licensee has been convicted of a felony based on possession or use of cannabis goods that would not be a felony if the person was convicted during the time of licensure is one factor that will be considered. This is necessary for consistency with the factors considered when issuing a license.

Section III contains the disciplinary guidelines. The types of violations have been categorized into three tiers. Tier 1 contains a list of violations that have been determined to be the least potentially harmful. Penalties for tier 1 violations range from suspension or fine, to revocation. Tier 2 violations typically involve a more serious potential for harm or a greater risk and disregard for public safety. Tier 2 violations are potentially more harmful than tier 1 violations, but less harmful than tier 3 violations. The recommended penalty for a tier 2 violation is generally more severe than the penalty for a tier 1 violation. Tier 3 violations involve a knowing or willful violation of the rules or fraudulent acts relating to the licensee's business. Tier 3 violations are potentially the most harmful. The recommended penalty for tier 3 violations is generally a longer suspension, a larger fine, or revocation.

The Disciplinary Guidelines have also been amended to include and more accurately reflect the changes in the proposed regulations. This includes adding language to clarify the violations. This includes specifying and clarifying language under Section III, and the Disciplinary Order Guidelines, that failure to pay appropriate fees; failure to destroy a license; use of a cannabis diffuser or vaporizer on the licensed premises; failure of a licensee or employee to properly display a licensee-issued identification badge; giving away or furnishing of free cannabis accessories; failure to comply with security measures; unauthorized distribution activities; improper transfer of cannabis goods between retailer premises; allowing for the sale, storage or consumption of alcoholic beverages on licensed premises; failure to comply with accounting requirements; and making false or misleading health-related statements, may be considered violations subject to discipline under Tier 1 of the disciplinary order guidelines.

Testing procedures were also added to Tier 1 violation descriptions, including the failure to maintain proper chain of custody of a testing sample, failure to submit a certificate of analysis and results to the Bureau in a timely manner, and failure to supply requested data to the Bureau in a timely manner as it relates to the data package required under section 5732. This was

necessary to make distinct certain requirements and violations that would not fall under Tier 2, where violations of other testing requirements are encompassed.

Changes also include removal of certain violation descriptions, such as failure to comply with record of sales requirements under section 5425, and its ensuing authority reference, as well as the authority for cannabis destruction under section 5055, as these sections were removed from the proposed regulations. These violations descriptions are amended or added to tier 1 as serious offenses not rising to the level of tier 2 or tier 3 violations, based on, but not limited to, the seriousness of the offense and potential or resulting harm, the protection of the public as a priority, and the probable degree of intentional or willful misconduct.

Some violation descriptions were moved from Tier 2 violations to Tier 1 violations after consideration of comments as concerns and/or questions relating to certain operations and activities. Violation descriptions relating to the failure to confirm the age of customers, failure to properly display cannabis goods, and the unauthorized return of cannabis goods, were moved to Tier 1, as violations that are less potentially harmful, and may occur more frequently due to licensee confusion and/or education and training.

Additional violation descriptions added to Tier 2 of the Disciplinary Order Guidelines, include, holding an interest in a licensed testing laboratory and another non-laboratory commercial cannabis license, sale or delivery of cannabis goods to persons within a motor vehicle, unauthorized storefront activities with a non-storefront license, failure to ensure proper sampling, unauthorized remediation of failed sample batches, engaging in any prohibited restraint of trade or other prohibited act to create a monopoly or injure competitors, violating a building standard or regulation relating to hazardous materials, and failing to comply with manufacturing standards. These violations descriptions are added to tier 2 as serious offenses not rising to the level of tier 3 violations, based on, but not limited to, the seriousness of the offense, the protection of the public as a priority, and the probable degree of intentional or willful misconduct.

Changes to the violation description relating to the failure to verify age of customers, was changed to a failure to confirm age of customers, to more accurately reflect the language used in the proposed regulations, under section 5404.

Testing procedure violations were also added to Tier 2 violation descriptions, including the failure to present an entire cannabis goods batch with accurate information and in its final form, reporting results when laboratory quality control data is outside of acceptance criteria or not properly analyzed, failure to follow good laboratory practices, failure to obtain a representative sample, and unauthorized re-sample or re-testing. This was necessary to make distinct certain requirements and violations from other similar violations of testing requirements under Tier 2.

Additional violation descriptions added to Tier 3 of the Disciplinary Order Guidelines, include, engaging in business modification practices without Bureau approval, restricting or hindering the examination of equipment, failing to notify the Bureau of labor standards violations, false reporting of a disaster, retail sale of untested cannabis goods, unauthorized release of patient information, sale of customer-returned cannabis goods, failure to provide access for inspection, conviction of a crime substantially related to qualifications for licensure, and failure to pay taxes. These violations descriptions are added to tier 3 violations, based on, but not limited to, the seriousness of the offense, the protection of the public as a priority, and the probable degree of intentional or willful misconduct.

Testing procedure violations were also added to Tier 3 violation descriptions, including the unauthorized release of a cannabis goods batch for retail or distribution transfers, failure to complete all required analysis at one licensed laboratory premises or otherwise allowing for subcontracting of testing, and amending or changing a regulatory compliance certificate of analysis after issuance. This was necessary to make distinct certain requirements and violations of testing requirements that are more serious in nature than other violations of testing requirements under Tier 1 or Tier 2. Violation descriptions relating to the unauthorized release of a cannabis goods batch for retail sale was clarified to include dry-labbing, and false reporting of results.

These additional violation descriptions are not additional restrictions or prohibitions for licensees. They are existing rules and regulations, for which the Bureau may enforce and take action on. They are included in the Disciplinary Order Guidelines for clarification purposes, and any absence of a violation or description of a violation does not preclude the Bureau from taking necessary administrative, or other, action against a licensee.

The minimum and maximum fine amounts have also been amended to more accurately reflect the changes in the fee schedule under section 5014. Reference to section 5015 was also changed to section 5014, to more accurately reflect the license fee schedule. The section has also been clarified to add that the maximum fine amounts listed do not limit any statutorily provided fine amount that exceeds the maximum fine amount listed. This is clarified through Business and Professions Code section 26160 which provides that a licensee can be subject to up to \$30,000 for violating the requirement to maintain or provide records. Additionally, the minimum fine amount is clarified as not being less than \$1,000 for any violation. This is necessary to establish a base penalty amount for violating provisions of the Act or its implementing regulations.

The Cannabis Sales used in the fine formula was revised to gross revenue, a determination that will be more easily made by all licensees and which is used to calculate the fees. The Number of Days Open in Calculation Period was amended to The Number of Days During the Preceding 12 Months, to provide a more determinative figure in calculating the average daily sale amount. This was also necessary as there have been comments and concerns as to how to determine the

number of days open in a calculation period. Additionally, the formula was amended to use 50% of the average daily sale amount to determine the potential fine amount, a figure that creates a more reasonable calculation and potential fine amount, based off the changes to the annual license fee schedule.

The fine amount schedule was amended to reflect the changes in the annual license fee schedule, which was amended to adjust the calculation of the license fee based off of gross revenues, instead of the value of operations. The fine amounts were adjusted to a calculation of a minimum fine that is half of the associated license fee amount, and a maximum fine that is double the associated license fee amount. This was necessary to provide a more reasonable fee calculation and scale that reflects the operations of the licensee and its violations.

Typing and grammatical errors were addressed, and changes made, specifically, under the Disciplinary Order Guidelines authority, for all tiers, to remove reference to title 16 of the California Code of Regulations, as redundant, and to Section VI, Standards Conditions of Probation, including specifying that the required introductory language and conditions include sections 1 through 9.

Section IV of the Disciplinary Guidelines were amended, under the provision to obey all laws, to clarify that the respondent under criminal court orders applies to all individual owners of the licensee probationer, and that the provision pertaining to reporting in person, is amended to clarify that the respondent licensee on probation, through a designated owner-individual, is the responsible party to report in person. Additionally, the fifteen days under subsection 4, to Comply with Conditions of Probation was also amended to clarify that the days referenced are calendar days, to avoid confusion or ambiguity.

#### § 5815. Emergency Decision and Order

Subsection (h)(3) is revised, by adding “licensed” before premises, to clarify and specify that the premises referred to are to be the licensed premises. This is necessary for clarity and consistency of terminology throughout the regulations.

Subsection (i) is revised, by adding “calendar” to clarify the interpretation of days as calendar or business days. This is necessary to avoid any confusion or ambiguity that the days are business days, for which the required action must take place, so no deadlines are missed.

The reference section has been revised to correct a typographical error.

## **Chapter 8. Other Provisions**

### Changes Made to Chapter 8:

#### § 5902. Selection Process and Criteria

Subsection (c)(2) is revised, by adding the language “the scientific and technical merit of the proposed projects as evaluated by relevant experts.” The addition of this language is necessary to clarify the research-based objectives of the proposals provided.

#### § 5904. Reports to the Bureau

This section has been revised to reorganize the content into new subsections. This is necessary to provide additional clarity.

Subsection (a) is revised, to clarify that the performance reports provided in the section may be altered or modified in the grant agreement. This revision is necessary to clarify a grant recipient’s duty to provide performance reports.

Subsection (b) has been removed. This revision is necessary to make any distinctions so as avoid any confusion or ambiguity as to whether a performance report may be deemed any other type of report, including statutorily-mandated reports. The provisions of the removed subsection were duplicative and are already statutory requirements that remain in place despite removal of the regulatory provision.

Subsection (c) is revised and removed, into new section 5905, to clarify and specify the distinction between reports and records. This is necessary to make clear that the requirements under providing performance reports, and maintaining records, are two distinct requirements. As subsection (c) has been revised and removed the heading of this section has been amended to more accurately reflect this provision.

The authority and reference section has been added as it was inadvertently deleted when section 5905 was created by revising former subsection (c) of section 5904. The authority for this section is Section 26013 of the Business and Professions Code and section 34019 of the Revenue and Taxation Code. The reference statute for this section is Section 34019 of the Revenue and Taxation Code.

#### § 5905. Research Records

This section is new and was created by revising subsection (c) of section 5904. This new section was created to clarify and specify the distinction between reports and records. This is necessary to make clear that the requirements under providing performance reports, and maintaining

records, are two distinct requirements. The authority and reference section of this section has been amended to include as a reference Section 26160 of the Business and Professions Code.

In addition, the Bureau is also making several nonsubstantive punctuation, spelling, and grammatical changes to the text of the originally noticed regulations. These nonsubstantive changes will make the proposed regulation language consistent with the formatting in the existing California Code of Regulations.

## **ADDITIONAL FORMS**

The Bureau has included four new forms for use by licensees. The forms were adopted from the proposed regulations and will provide clarification and guidance on items that need to be submitted to the Bureau by licensees. Incorporating these forms by reference is necessary, as publishing the documents in the California Code of Regulations would be cumbersome and otherwise impractical.

### Notification and Request, Form BCC-LIC-027 (New 10/18)

The Notification and Request Form is a form by which licensees provide certain notifications to the Bureau of Cannabis Control (Bureau), or by which licensees makes certain written requests to the Bureau. The proposed regulations require licensees to provide written notifications and requests under certain circumstances and provisions. For instance, licensees are required to provide notification of any change to ownership or financial interest, and to submit a written request for any change to a physical modification of their licensed premises.

The proposed regulations require these written notices or requests for a number of changes or modifications relating to the licensee or an owner of a licensee, and the proposed regulations have been amended to require the use of this form when making such notices or requests. Thus, this form will make it convenient for the licensees to submit any notifications or requests, and also provides instructions on when and how to submit the form.

This form is added to the proposed regulations and incorporated by reference, as a required form for certain notifications and written requests. The purpose of this change in adding the form and incorporating it by reference, is to streamline and make consistent the method by which licensees notify the Bureau and make written requests to the Bureau, as required under certain regulatory provisions. Incorporating this form by reference is also necessary, as publishing the document in the California Code of Regulations would be cumbersome and otherwise impractical.

### CEQA Exemption Petition, Form BCC-LIC-026 (New 10/18)

Section 5010.2 allows applicants to submit documentation to the Bureau demonstrating that a project is exempt from further environmental review pursuant to CEQA because the project falls within a class of projects under the CEQA Guidelines that have been determined not to have

significant effects on the environment. This section informs applicants about the type of information that the Bureau will need from applicants to determine whether a project is categorically exempt from CEQA, such that no further environmental review is required. For the convenience of applicants, the Bureau has prepared a CEQA Exemption Petition Form, which captures the information applicants must submit to the Bureau. The purpose of this form is to assure that any applicant who believes their project is exempt from further CEQA review provides the necessary information in a uniform manner to facilitate the Bureau's determination.

#### CEQA Project-Specific Information, Form BCC-LIC-025 (New 10/18)

Section 5010 informs applicants of the information necessary to fulfill the application requirement regarding the California Environmental Quality Act (CEQA). Prior to issuing a license, the Bureau must ensure that the appropriate level of environmental review under CEQA has been completed. This determination requires the Bureau to review specific information from applicants to determine what type of environmental document should be prepared. For the convenience of applicants, the Bureau has prepared a CEQA Project-Specific Information Form, which captures the information applicants must submit to the Bureau per section 5010. The purpose of this form is to assure that all applicants are able to provide project-specific information in a uniform manner for the Bureau to review and evaluate.

#### Data Package Cover Page and Checklist, Form BCC-LIC-024 (New 10/18)

Section 5732 of the proposed regulations previously contained the requirements for the data package that must be submitted for each representative sample of cannabis goods that are analyzed by testing laboratories. The Bureau has received numerous questions regarding the data package, including how the data package should be compiled and formatted. Due to this confusion and in an effort to establish consistency between licensed testing laboratories, the Bureau has developed the Data Package Cover Page and Checklist. The form contains all the requirements that were previously in section 5732. The first page of the form contains space for laboratories to provide required information about the laboratory, such as the name, premises, address, and license number. The first page also contains a chart for licensees to fill in with the name and signature of the laboratory employee that performed the analytical procedures. The second page contains a checklist of the minimum requirements for the data package. This will provide licensees with an easy guide for the data package and ensure that the laboratory is not missing anything that must be provided. The second page also contains space for the supervisory or management laboratory employee to confirm that the analytical results have been reviewed for technical correctness and completeness and that the results of each analysis carried out by the laboratory have been reviewed and determined to be reported accurately, clearly, unambiguously, and objectively. Lastly, the second page contains space for the supervisory or management laboratory employee to sign the checklist form and attest that

they have reviewed the complete data package and have approved the contents and laboratory results.

### **ADDITIONAL DOCUMENTS INCORPORATED BY REFERENCE**

The following forms are incorporated into the regulations by reference and discussed in detail above:

1. Bureau Notification and Request, Form BCC-LIC-027 (New 10/18)
2. CEQA Exemption Petition, Form BCC-LIC-025 (New 10/18)
3. CEQA Project-Specific Information, Form BCC-LIC-026 (New 10/18)
4. Data Package Cover Page and Checklist, Form BCC-LIC-024 (New 10/18)

The following document is incorporated into the regulations by reference:

5. *Poison Prevention Packaging Act of 1970 Regulations*, (16 C.F.R. §1700.15(b)(1)) (Rev. July 1995)
6. Bureau of Cannabis Control, Disciplinary Guidelines, October 2018

### **ADDITIONAL DOCUMENTS AND INFORMATION TO THE RULEMAKING FILE**

The documents and information added to the rulemaking file are as follows:

1. Cannabis Advisory Committee, Meeting Notes from the following:
  - a. November 16, 2017—Sacramento
  - b. January 18, 2018—Sacramento
  - c. March 15, 2018—Los Angeles
  - d. May 17, 2018—Oakland
2. Cannabis Advisory Committee, Status of Adopted Regulations  
<[https://www.bcc.ca.gov/about\\_us/meetings/materials/20180820\\_cac\\_4.pdf](https://www.bcc.ca.gov/about_us/meetings/materials/20180820_cac_4.pdf)> (as of Sept. 28, 2018).
3. University of California Agricultural Issues Center, Calculations and Suggestions on Bureau License Fees (Sept. 2018).
4. Cannabis Advisory Committee, Meeting Transcripts from the following:
  - a. January 18, 2018—Sacramento
  - b. March 15, 2018—Los Angeles
  - c. May 17, 2018—Oakland
5. Cannabis Advisory Committee, Webcasts from the following:
  - a. July 19, 2018—San Diego [https://www.youtube.com/watch?v=\\_XZLfGDDwsM](https://www.youtube.com/watch?v=_XZLfGDDwsM)
  - b. August 20, 2018—Sacramento <https://www.youtube.com/watch?v=JBSp67I1neA>
  - c. September 20, 2018—Eureka <https://www.youtube.com/watch?v=DxKBEbUQkA>

The Bureau has removed the website address for documents relied upon 48 and 49 in the listing contained in the regulatory package for accuracy.



## **LOCAL MANDATE DETERMINATION**

The proposed regulations do not impose any mandate on local agencies or school districts.

## **SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE INITIAL NOTICE PERIOD OF JULY 13, 2018 THROUGH AUGUST 27, 2018**

Written and oral comments were received during the 45-day comment period on the proposed regulations. For each comment submission the Bureau assigned a number. The number would apply to the whole of the submission whether it was an email, letter, or oral testimony. When a comment submission contained multiple comments, the Bureau assigned a sub number to the comment submission number which created the comment number. In the Bureau's summary and response to comments the comment numbers are included in the chart with the page numbers of the comments in parenthesis and the Bureau's response. In some cases, a comment number may appear in multiple responses where multiple responses were warranted. The Bureau's summary and response to relevant comments received are contained in Appendix A. The Bureau's summary and response to irrelevant comments received are contained in Appendix B. Within the copies of the 45-day comments, wholly relevant comment submissions or comment submissions with both relevant and irrelevant comments are included in the pages of relevant comments. Those comment submissions that are wholly irrelevant are included in the pages of irrelevant comments. All 45-day comment submission copies are numbered sequentially.

## **SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE PERIOD THE MODIFIED TEXT WAS AVAILABLE TO THE PUBLIC**

Written comments were received during the 15-day comment period on modifications to the proposed regulations. For each comment submission the Bureau assigned a number. The number would apply to the whole of the submission whether it was an email, letter, or oral testimony. When a comment submission contained multiple comments, the Bureau assigned a sub number to the comment submission number which created the comment number. In the Bureau's summary and response to comments the comment numbers are included in the chart with the page numbers of the comments in parenthesis and the Bureau's response. In some cases, a comment number may appear in multiple responses where multiple responses were warranted. The Bureau's summary and response to relevant comments received are contained in Appendix C. The Bureau's summary and response to irrelevant comments received are contained in Appendix D. Within the copies of the 15-day comments, wholly relevant comment submissions or comment submissions with both relevant and irrelevant comments are included in the pages of relevant comments. Those comment submissions that are wholly irrelevant are included in the pages of irrelevant comments. All 15-day comment submission copies are numbered sequentially.

## **ALTERNATIVES DETERMINATION**

In accordance with Government Code section 11346.5, subdivision (a)(13), the Bureau must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

In considering the proposed regulations, the Bureau considered a lower-cost alternative and a higher-security alternative. The proposed regulations impose a 50-pound maximum batch size for testing. The proposed regulations also require the use of an enclosed vehicle for deliveries of cannabis and allow for one retailer employee to make deliveries on their own. Additionally, the proposed regulations require that licensees maintain security cameras in specific locations with at least a 1280 x 720 resolution at a minimum of 15 frames per second. The proposed regulations also require that video footage be stored for at least 90 days. The proposed regulations require that cannabis goods be rendered unrecognizable and unusable prior to disposal and that cannabis waste be disposed of by licensed waste haulers. The proposed regulations require that retailers only sell cannabis goods between the hours of 6 a.m. and 10 p.m.

The lower cost alternative would remove the maximum batch size for testing. The lower cost alternative would also allow for delivery using a bicycle, motorcycle, or scooter in addition to enclosed vehicles. Like the proposed regulations, the lower cost alternative would allow for one employee to make deliveries by themselves. The lower cost alternative does not have any security-video requirements. The lower cost alternatives have no waste storage and disposal requirements. The lower cost alternative also does not restrict the hours that a retailer may sell cannabis goods.

The higher-security alternative would lower the maximum batch testing size to 10 pounds. The higher-security alternative would also require the use of enclosed vehicles for delivery but would require that at least 2 employees make deliveries together. Additionally, the higher security alternative would require security cameras to be placed at specific locations. The higher-security alternative would require that the cameras record at least at a resolution of 1280 x 1024 at a minimum of 20 frames per second and that the footage be stored for at least 90 days. The higher-security alternative includes more stringent waste cannabis waste disposal requirements. The higher-security alternative also requires that prior to disposal, cannabis waste be disguised by blending with solid waste or soil, the waste be weighed and labeled with a bill of lading, and quarantined in a dedicated area on camera for 72 hours prior to disposal. Like the proposed regulations, the higher-security alternative requires that retailers only sell cannabis goods between the hours of 6 a.m. and 10 p.m.

The proposed regulations are expected to increase the total compliance cost by \$408 per pound and are expected to result in an increase in the cannabis industry's revenue by \$695 million with an increase in quantity sold by 33,765 pounds when compared to the non-regulated baseline. The regulations are expected to result in a total increase in cost of \$6 billion and generate a total benefit of \$6.4 billion. The lower-cost alternative is expected to increase compliance costs by \$350 per pound, or \$58 per pound less than the proposed regulations, and expected to result in an increase in the cannabis industry's revenue by \$665 million with an increase in quantity sold by 43,755 pounds when compared to the non-regulated baseline. The lower-cost alternative is expected to result in a total increase in cost of \$2.8 billion and generate a total benefit of \$3 billion. The higher-security alternative is expected to increase compliance costs by \$744 per pound or \$336 per pound more than the proposed regulations, and is expected to result in an increase in the cannabis industry's revenue by \$641 million with a decrease in quantity sold by 57,549 pounds when compared to the non-regulated baseline. The regulations are expected to result in a total increase in cost of \$6.4 billion and generate a total benefit of \$6 billion.

The lower-cost alternative was not chosen because the additional safety and security obtained from the proposed regulations are important enough to warrant the additional cost. Adequately monitoring the premises of licensees, preventing theft during deliveries, and ensuring adequate and accurate testing are all very important in maintaining the safety and security of the public. Additionally, the lower-cost alternative is expected to result in smaller industry revenue than the proposed regulations. Therefore, the Bureau elected to proceed with the proposed regulations over the lower-cost alternative.

The higher-security alternative was not chosen because the higher costs of this alternative are not warranted by the marginal increase in safety and security. Having at least 2 delivery employees make deliveries does decrease the risk of theft while making deliveries. However, this decrease in theft can be achieved through other methods without having to employ an additional employee. For example, if a delivery employee ensures that the vehicle they use for deliveries has all the required security features, and the employee does not leave cannabis goods in the vehicle unattended, the risk of theft can be decreased without the need for an additional employee. The smaller maximum batch limit of 10 pounds as compared to the 50-pound limit in the proposed regulations is expected to greatly increase cost, but provide very little benefit in terms of more accurate testing. Also, the higher-security alternative is expected to have a smaller increase in industry revenue when compared to the proposed regulation. Therefore, the Bureau has elected to proceed with the proposed regulations over the higher-security alternative.

The regulations adopted by the Bureau are the only regulatory provisions identified by the Bureau that accomplish the goal of ensuring that commercial cannabis activity is conducted by qualified persons in a manner that protects the health and safety of the public. Except as set forth

and discussed above and in the summary and responses to comments, no other alternatives have been proposed or otherwise brought to the Bureau's attention.